

ENVIRONMENTAL CONTROL BOARD
DIGEST OF LAWS, RULES, AND REGULATIONS

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PART 1

LAWS GOVERNING BOARD

ARTICLE 1
MAYOR, CITY COUNCIL, AND MUNICIPAL AGENCIES

SUBTITLE 40
ENVIRONMENTAL CONTROL BOARD

§ 40-1. Definitions.

(a) *In general.*

In this subtitle, the following words have the meanings indicated.

(b) *Board.*

“Board” means the Environmental Control Board of Baltimore City.

(c) *Director.*

“Director” means the Executive Director of the Environmental Control Board of Baltimore City.

(d) *Environmental citation.*

“Environmental citation” means a prepayable citation for violation of any provision of law or regulation under the jurisdiction of the Board.

(e) *Person.*

“Person” means:

(1) an individual;

(2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and

(3) a partnership, firm, association, corporation, governmental agency, or other entity of any kind.

(*City Code, 1976/83, art. 1, §295.*) (*Ord. 98-326.*)

§ 40-2. Board established.

(a) *In general.*

The Environmental Control Board of Baltimore City is established as an independent agency of City Government.

(b) *Composition.*

(1) The Board comprises 13 members.

(2) 6 are the following ex officio members, or their respective designees:

- (i) the Commissioner of Health;
- (ii) the Commissioner of Housing and Community Development;
- (iii) the Police Commissioner;
- (iv) the Fire Chief;
- (v) the Director of Public Works; and
- (vi) a member of the City Council, to be appointed by the President of the City Council.

(3) 7 members are appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.

(c) *Qualifications of appointed members.*

Of the members appointed under subsection (b)(3) of this section:

- (1) 2 members must be appointed from the general public; and
- (2) 5 members must be appointed with at least 1 designated as having expertise in each of the following areas:
 - (i) real estate;
 - (ii) small business;
 - (iii) air or noise pollution;
 - (iv) water pollution;
 - (v) solid waste.

(d) *Chair.*

The Chair of the Board is appointed by the Mayor from among the members.

(e) *Compensation.*

The members appointed under subsection (b)(3) of this section:

- (1) are not entitled to compensation; but

- (2) are entitled to reimbursement for expenses incurred as provided in the Ordinance of Estimates.

(City Code, 1976/83, art. 1, §296.) (Ord. 98-326.)

§ 40-3. General Board functions.

(a) *Hearings.*

The Board is responsible to provide for hearing officers or panels of Board members to conduct hearings on contested environmental citations.

(b) *Appeals.*

The Board is responsible to provide for an opportunity to appeal to the Board or to a panel of the Board from the decision of a hearing officer.

(c) *Collections.*

With the assistance of its Executive Director and staff, the Board is responsible for:

- (1) all actions necessary or appropriate to collect fines imposed under this subtitle; and

- (2) all bookkeeping, accounting, and revenue reconciliations.

(City Code, 1976/83, art. 1, §297.) (Ord. 98-326.)

§ 40-4. Executive Director; staff.

(a) *Director.*

- (1) The Executive Director of the Board is appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.

- (2) The Executive Director is entitled to the compensation provided in the Ordinance of Estimates.

(b) *Staff.*

The Executive Director may appoint the assistants, hearing officers, and other employees needed to properly perform the work of the Board, as provided in the Ordinance of Estimates.

(City Code, 1976/83, art. 1, §298.) (Ord. 98-326.)

§ 40-5. General jurisdiction of Board.

The Board has full authority to enforce, in accordance with the provisions of this subtitle, the sanitation, environmental, health, safety, and other quality-of-life provisions of law listed in § 40-14 of this subtitle, including any rules and regulations adopted under them.

(City Code, 1976/83, art. 1, §299.) (Ord. 98-326.)

§ 40-6. Rulemaking authority.

(a) *In general.*

The Board must adopt and, from time to time, may amend rules and regulations necessary or appropriate to carry out its powers and duties under this subtitle.

(b) *Matters included.*

These rules and regulations must include:

- (1) procedures for the issuance and enforcement of environmental citations for violations of the laws, rules, and regulations subject to the Board's jurisdiction;
- (2) procedures for the adjudication of these violations, including the conduct of hearings and appeals by hearing officers, panels of the Board, or the full Board; and
- (3) procedures for enforcement of any abatement order that is contained in a citation or made part of an order or decision of a hearing officer, panel of the Board, or the full Board.

(City Code, 1976/83, art. 1, §300.) (Ord. 98-326.)

§ 40-7. Environmental Citations.

(a) *Board to prescribe.*

The Board must prescribe the form and wording of environmental citations.

(b) *Required contents.*

In addition to any other matters that the Board prescribes, an environmental citation must include:

- (1) the name, if known, of the person cited;
- (2) the violation with which the person is cited, including a reference to the specific law in question;
- (3) the manner and time in which the person must either:
 - (i) pay the prepayable fine prescribed for the violation; or
 - (ii) request a hearing on the violation;
- (4) the time within which the violation, if ongoing, must be abated; and
- (5) a notice that failure to act in the manner and time stated in the citation may result in a default decision and order entered against the person.

(c) *Service of citations.*

An environmental citation must be:

- (1) issued by a Sanitary Enforcement Officer or other City employee who has been authorized to act as a Special Enforcement Officer under Article 19, § 71-1 of the City Code; and
- (2) served on the person cited by 1 of the following methods:
 - (i) in person;
 - (ii) certified mail, return receipt requested;
 - (iii) delivery to a person of suitable age and discretion who resides at the cited person's last known address; or
 - (iv) for service on an occupant of the premises at which the violation occurred:
 - (A) posting on the main entrance of the premises; and
 - (B) mailing by regular mail to the person cited, at that person's last known address.

(d) *Tenor of citation.*

When issued and served, the citation or a copy of it:

- (1) constitutes full and complete notice of the violation cited in it;
- (2) if abatement is ordered, constitutes a full and complete notice of the order of abatement; and
- (3) if sworn to or affirmed, is prima facie evidence of the facts contained in it.

(e) *Record of citation to be kept.*

The original or a copy of the citation must be filed and retained in the records of the Board.
(City Code, 1976/83, art. 1, §301.) (Ord. 98-326; Ord. 02-362.)

§ 40-8. Default by person cited.

(a) *Failure to respond constitutes admission of liability.*

Any person cited under an environmental citation is conclusively considered to have admitted liability for the violation cited and responsibility for abating the violation if, within the time allowed by the rules of the Board, the person:

- (1) neither pays the prescribed prepayable fine nor requests a hearing on the violation; or

(2) having requested a hearing, fails to appear on a designated hearing date.

(b) *Board order; default penalty.*

Under either of the circumstances described in subsection (a) of this section, the Board may:

(1) render a default decision and order against the person cited; and

(2) impose a civil penalty that, based on relevant standards to be set by Board regulation (e.g., nature and severity of underlying violation, history of past violations, mitigating or aggravating circumstances), is:

(i) no less than the amount of the prepayable fine specified for the violation in question; and

(ii) no more than the lesser of:

(A) \$1,000; or

(B) 3 times the prepayable fine specified for the violation in question.

(c) *Notice of default order.*

Before an order based on a default becomes final, the Board must notify the respondent, by first-class mail, of:

(1) the default decision and order;

(2) the amount of all penalties imposed; and

(3) the right of the respondent, within 30 days of the notice, to avoid a final judgment and collection proceedings by requesting a stay of default for good cause shown and a hearing on the request.

(City Code, 1976/83, art. 1, §302.) (Ord. 98-326.)

§ 40-9. Administrative adjudications.

(a) *In general.*

The Board, acting by or through its hearing officers, panels of the Board, and other authorized agents:

(1) must conduct hearings and other proceedings for adjudicating violations of the laws, rules, and regulations enforced by it; and

(2) has full authority to render decisions and orders, as well as impose the civil penalties provided by law for those violations.

(b) *Unappealed decision of hearing officer or panel.*

Unless otherwise specified by the Board, every decision of a hearing officer or panel of the Board from which no timely appeal is taken to the Board constitutes a final decision of the Board.

(City Code, 1976/83, art. 1, §303.) (Ord. 98-326.)

§ 40-10. Judicial review.

Any person who, after having exhausted all administrative remedies available, is aggrieved by a final decision of the Board may appeal that decision to the Circuit Court for Baltimore City within the time and in the manner provided in the Maryland Rules.

(City Code, 1976/83, art. 1, §304.) (Ord. 98-326.)

§ 40-11. Enforcement of Board orders.

(a) *Penalty as debt and lien.*

Any civil penalty imposed on a person by the Board, whether on hearing, on default, or otherwise:

- (1) is a personal debt owed by that person to the City; and
- (2) if the offense involves real property owned by that person, creates a lien on that property in favor of the City.

(b) *Collection of penalties and liens.*

All penalties and liens incurred under this subtitle:

- (1) are collectible from and enforceable against any of the assets of the person who incurred the penalty; and
- (2) may be collected and enforced in the same way that the City collects and enforces other debts due to it or liens in its favor.

(c) *Priority over other liens and encumbrances.*

All penalties and liens incurred under this subtitle have priority over all other liens and encumbrances, except taxes or other government assessments.

(City Code, 1976/83, art. 1, §305.) (Ord. 98-326.)

§ 40-12. Judicial assistance in enforcement.

The Board may apply to a court of competent jurisdiction for enforcement of any decision, order, or subpoena issued by the Board.

(City Code, 1976/83, art. 1, §306.) (Ord. 98-326.)

§ 40-13. Subtitle not exclusive.

The issuance of an environmental citation does not preclude pursuit of any other remedy or enforcement action authorized by law.

(City Code, 1976/83, art. 1, §307.) (Ord. 98-326.)

§ 40-14. Violations to which subtitle applies.*(a) In general.*

The jurisdiction and authority of the Board extends to each of the provisions of the Baltimore City Code that are specified in subsection (e) of this section, as those provisions may be amended from time to time, including any rules and regulations adopted under them from time to time.

(b) Prepayable fines.

- (1) The basic prepayable civil fine for violation of a provision is as specified next to the listing of that provision in subsection (e) of this section.
- (2) The basic prepayable fine is doubled, however, on any environmental citation that is issued to a person if, within the past 12 months:
 - (i) a final order of the Board, whether issued on hearing, on default, or otherwise, imposed a penalty on that person for a violation of the same provision; or
 - (ii) that person prepaid an environmental citation for a violation of the same provision.

(c) Continuing violations.

- (1) If a provision of law provides that the continuation or recurrence of a violation constitutes a separate offense, a separate environmental citation may be issued for each separate offense.
- (2) The payment of a penalty under this subtitle does not relieve the offender of the duty to fully abate and correct any continuing violation or other unlawful act.

(d) Prior notice not required.

Notwithstanding any other provision of the City Code to the contrary, notice need not be given before issuance and enforcement of an environmental citation for any of the provisions listed in subsection (e) of this section.

*(e) Provisions and penalties enumerated.**(1) {Repealed}**(2) Article 15. Licensing and Regulation*

§ 16-8(b). Truck peddler - trash receptacles required	\$100
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(3) Article 19. Police Ordinances

§ 7-2. Vehicle alarms: Prohibited devices	\$100
§ 8-18. Burglar alarms: Penalties	
Users	\$250
Contractors, Monitors, Others	\$500
§ 14-2 or § 14-3. Drinking in public places	\$ 50
§ 41-2. Outdoor telephones: Prohibited placement	\$500
§ 45-2. Signs on public property: Posting prohibited	\$100
§ 45-3. Signs on public property: Removal of illegal signs	\$100
§ 48-2. Resale of tickets near sports facilities	\$ 50
§ 50-2. Obstructing street, etc., or gutter	\$ 50
§ 50-3. Merchandise projecting from building	\$ 50
§ 51-2. Compliance with {park} rules	\$200
§ 50-46 or § 50-47. Snow - cleaning required	\$ 50

(4) Article 23. Sanitation

§ 2-2. Garbage and mixed refuse; receptacles	\$ 60
§ 2-3. Garbage and mixed refuse; handling	\$ 60
§ 4-1 or § 4-2. Receptacles on collection days	\$ 60

(4a) Article 24. Water

§ 21-1. Rules and regulations	\$250
§ 21-2. Suspension, etc., of certain uses	\$100
§ 21-3. Injuring fire hydrants	\$250
§ 21-4. Wrongful use after cut-off	\$150
§ 21-5. Refusal of entry	\$100
§ 21-6. Interference with equipment; illegal use of water	\$500

(5) Article 31. Transit and Traffic

§ 16-12. Vehicles on sidewalks \$ 50

(6) Building, Fire, and Related Codes – Fire Code

§ 110 {§110.1}. Unsafe buildings{: General} \$100

§ 1003.2 {§1001.3}. Exceeding occupant load
{Means of Egress: Overcrowding}

1-99 persons over capacity \$100

100-199 persons over capacity \$250

200 or more persons over capacity \$500

§ 1003.3 {§1001.2}. Egress doors
{Means of Egress: Minimum requirements} \$250

(6a) Building, Fire, and Related Codes – Property Maintenance Code

§§ 304 - 307. Sanitary maintenance

Residential properties \$ 50

Commercial properties \$100

(7) Health Code

Title 4: Disease Control

Subtitle 6: Screening for Lead Poisoning

§ 4-601. Parental Responsibility \$100

Title 5: Nuisance Control

Subtitle 2: Nuisance Abatement

§ 5-210. Abatement notice \$100

Subtitle 4: Lead-Based Paint \$100

Subtitle 5: Bodily Wastes	
§ 5-501. Spitting	\$ 25
§ 5-503. Urinating, etc. - in general	\$150
§ 5-504. Urinating, etc. - parents	\$150
Subtitle 7: Weeds	\$ 50
Title 6: Food Service Facilities	\$100
Title 7: Waste Control	
Subtitle 2: Solid Waste Collection	\$100
Subtitle 4: Landfills	\$200
Subtitle 6: Prohibited Disposal	
Less than 25 lbs. in 24-hour period	\$150
25 lbs or more in 24-hour period	\$250
Subtitle 7: Littering	\$ 50
Title 8: Air Pollution	\$100
Title 9: Noise Regulation	
Subtitle 2: Basic Sound Level Standard	\$100
Subtitle 3: Entertainment and Commercial Noise	\$ 50
Subtitle 4: Amplified Sounds in Market Center	\$ 50
Title 10: Animal Control and Protection	
Subtitle 2: Licensing	
Part I. Dog and Cat Licenses	\$ 25
Part II. Facility Licenses	\$100
Subtitle 3: General Care and Control	
§ 10-301. Rabies vaccinations	\$ 50
§ 10-302. Reporting possible rabies exposure	\$ 50

All other provisions	\$100
Subtitle 4: Animal Protection	
§ 10-403. Abuse of animal	\$200
§ 10-406. Animal fights	
Generally	\$100
Dogfights	\$500
All other provisions	\$100
Subtitle 5: Animal Disturbing Peace	\$100
Subtitle 6: Wild and Dangerous Animals	
§ 10-601. Attack dogs	\$200
All other provisions	\$100
Subtitle 7: Vicious Dogs	\$200
Subtitle 9: Horse Riding and Driving	\$200
Title 11: Swimming Pools	
Subtitle 3: Public Swimming Pools	\$200
Title 12: Tobacco Products	
Subtitle 1: Smoking in City Buildings and Vehicles	\$ 25
Subtitle 2: Sale of Unpackaged Cigarettes	\$150
Subtitle 4: Placement of Tobacco Products	\$500
Subtitle 5: Distribution to Minors	\$500

(8) *Zoning Code*

§ 2-402. Use permit required	\$500
§ 3-107. Prohibited uses - storage, etc., of vehicles	\$ 50
<i>(City Code, 1976/83, art. 1, §308.) (Ord. 98-326; Ord. 99-487; Ord. 99-491; Ord. 99-520; Ord. 99-547; Ord. 99-548; Ord. 00-030; Ord. 00-069; Ord. 00-118; Ord. 01-172; Ord. 01-176; Ord. 02-322; Ord. 02-475; Ord. 02-476; Ord. 03-572.)</i>	

ARTICLE 19
POLICE ORDINANCES

SUBTITLE 71
SPECIAL ENFORCEMENT OFFICERS

§ 71-1. Appointment; duties.

(a) *Agency certification; appointment.*

The following officials shall from time to time certify to the Police Commissioner the names of employees of their respective departments for appointment by the Police Commissioner as Special Enforcement Officers:

- (1) Commissioner of Health.
- (2) Chief of the Fire Department.
- (3) Director of Public Works.
- (4) Commissioner of Housing and Community Development.
- (5) Director of Recreation and Parks.

(b) *Duties.*

- (1) On appointment, a Special Enforcement Officer may serve summonses and issue criminal citations to appear before the housing or other appropriate part of the District Court for Baltimore City in proceedings to enforce any City ordinance, rule or regulation, or public local law pertaining to buildings, housing, zoning, fire, public health, parks, and sanitation.
- (2) “Criminal citation” means a written or printed charging document with a summons to appear for trial.

(c) *Officers have no arrest powers.*

The officers appointed may not arrest or take into custody any violator or otherwise have the power of arrest in their official capacity.

(d) *Record of appointments; revocation.*

A record of appointment of the officers shall be kept by the Police Commissioner and any appointment may be revoked by the Commissioner at any time.

(e) *Badge and uniform.*

The form of badge and type of uniform, if any, worn by the appointed officers shall be approved by the Police Commissioner.

(f) *Additional authority.*

In addition to issuing prepayable criminal citations under § 71-25 of this subtitle, Special Enforcement Officers may issue and serve civil administrative citations to appear before the Environmental Control Board under Article 1, Subtitle 40 {"Environmental Control Board"} of the City Code.

(City Code, 1976/83, art. 19, §144.) (Ord. 74-509; Ord. 89-224; Ord. 90-612; Ord. 91-835; Ord. 98-359; Ord. 03-572.)

PART 2

COVERED OFFENSES

ARTICLE 15
LICENSING AND REGULATION

SUBTITLE 16
STREET VENDORS OF FOOD PRODUCTS

§ 16-8. Regulations – truck peddlers.

(b) *Trash receptacles required.*

(1) *Prohibited conduct.*

No motor truck peddler may stop, stand, or park for the purpose of selling food products unless the truck carries a trash receptacle for the use of customers.

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(*City Code, 1976/83, art. 19, §§173, 174.*) (*Ord. 69-526; Ord. 70-708; Ord. 99-548.*)

ARTICLE 19
POLICE ORDINANCES

SUBTITLE 7
BURGLAR ALARMS – VEHICLE ALARMS

§ 7-2. Prohibited devices.

(a) *Audible status indicator prohibited.*

The owner, lessee, or operator of a vehicle may not have in operation any audible status indicator.

(b) *Activation to be by contact or remote device.*

The owner, lessee, or operator of a vehicle may not have in operation any vehicle alarm system that is capable of being activated other than by:

- (1) direct physical contact with the vehicle; or
- (2) the use of an individual remote activation device that is designed to be used with the alarm system of the vehicle.

(c) *Automatic turn-off.*

The owner, lessee, or operator of a vehicle may not have in operation any vehicle alarm system unless the system:

- (1) automatically terminates its audible response within 3 minutes of being activated; and
- (2) will not be reactivated other than by one of the methods specified in subsection (b) of this section.

(City Code, 1976/83, art. 19, §28B(b).) (Ord. 98-263.)

SUBTITLE 8
BURGLAR ALARMS – REGISTRATION AND REGULATION

§ 8-18. Criminal penalties.

(a) *Users.*

Any unregistered user of an unmonitored system that causes contact with or summons City police is guilty of a misdemeanor and, on conviction, is subject to a fine of \$500 for each offense.

(b) *Others.*

Any contractor, monitor, or other person who violates any provision of this subtitle or of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of \$1,000 for each offense.

(Ord. 00-069; Ord. 02-329.)

SUBTITLE 14
DRINKING IN PUBLIC PLACES

§ 14-2. Prohibited conduct – in general.

(a) *While on streets, etc.*

It is unlawful for any person to drink or consume any alcoholic beverage (as that term is defined from time to time in Article 2B of the Annotated Code of Maryland) or to possess in an open container any alcoholic beverage, in or on any public street, avenue, alley, lane, sidewalk, park, building, or ground in this City.

(b) *While in or on motor vehicle.*

This section shall be applicable to drinking or consumption of alcoholic beverages in or on any Class A *{passenger}* or Class D *{motorcycle}* or Class M *{multipurpose}* vehicle (as these classes of vehicles are designated from time to time in the State Transportation Article).

(City Code, 1966, art. 19, §18(a); 1976/83, art. 19, §20(a).) (Ord. 64-352; Ord. 78-822; Ord.79-990.)

§ 14-3. Prohibited conduct – parents or guardians of minors.

A parent or guardian shall not knowingly permit a minor under the age of 18 years for whom the parent or guardian has responsibility to violate the provisions of this subtitle.

(City Code, 1976/83, art. 19, §20(c)(3)(i).) (Ord. 90-615.)

SUBTITLE 41
OUTDOOR TELEPHONES

§ 41-2. Prohibited placement.

A person may not install an outdoor telephone:

(1) in any public right-of-way without a minor privilege permit from the Department of Public Works; or

(2) on any other public or private property without:

(i) approval of the owner of the property; and

(ii) all permits required by the Public Service Commission.

(City Code, 1976/83, art. 19, §167A(b).) (Ord. 99-487.)

SUBTITLE 45
SIGNS – ON OR AFFECTING PUBLIC PROPERTY

§ 45-2. Postings prohibited.

No person may post, place, or affix a sign:

- (1) on any building owned, leased, or controlled by the City;
 - (2) on or within the confines of any public park, recreation area, or other landscaped grounds owned or operated by the City;
 - (3) on any flagpole or tree owned by the City;
 - (4) on any traffic-control sign or device, including but not limited to, stop lights and their standards, stop signs, yield signs, 1-way street signs, and any other sign or device that directs traffic or controls traffic signals, or on the supporting post of any traffic-control sign or device;
 - (5) in any way that:
 - (i) blocks a motorist's, cyclist's, or pedestrian's view of a traffic-control sign or device so as to create a hazard;
 - (ii) protrudes into a street or sidewalk so as to interfere with the safe passage of the public; or
 - (iii) otherwise poses a hazard to motorists, pedestrians, or cyclists;
 - (6) on any other property owned, leased, or controlled by the City; or
 - (7) on any pole, building or property that is owned, leased, or controlled by a public utility and located within or on any public street, alley, or other public property.
- (City Code, 1976/83, art. 19, §1(b).)(Ord. 85-478; Ord. 99-520.)*

SUBTITLE 48
SPORTING EVENTS

§ 48-2. Resale near stadiums.

(a) *Prohibited conduct.*

On any public right-of-way within 1 mile of the outer perimeter of the Baltimore Arena or of the Camden Yard Sports Complex (which includes the Orioles' Ballpark and the Ravens' Stadium), a person may not offer for resale any ticket to any sporting or other event that takes place at the Baltimore Arena or the Camden Yard Sports Complex.

(City Code, 1976/83, art. 19, §198A.) (Ord. 94-386; Ord. 99-418; Ord. 99-548; Ord. 03-595.)

SUBTITLE 50
STREET REGULATIONS

Part 1. Obstructions

§ 50-2. Obstructing street, etc., or gutter.

(a) *Prohibited conduct.*

Except as specifically provided in this section, no person may in any manner obstruct any street, lane, or alley of the City or any of their gutters.

(b) *Exception – deliveries, etc.*

This section does not apply to someone while in the immediate act of delivering or removing some article to or from a place of business or dwelling.

(c) *Exception – items requiring inspection, etc.*

Articles that are to be inspected or guarded under law may be placed on the sidewalk, but only if they are arranged so as not to obstruct the passage through the streets or sidewalks between the pavement and any house, store, cellar, or backyard, without the consent of the owner or occupant.

(City Code, 1879, art. 47, §116; 1893, art. 48, §135; 1927, art. 32, §91; 1950, art. 24, §91; 1966, art.19, §132; 1976/83, art. 19, §157.) (Rev. Ords. 1858-033; Ord. 74-528; Ord. 99-548; Ord. 03-595.)

§ 50-3. Merchandise projecting from building.

(a) *Prohibited conduct.*

No person may place, set, or display any vegetables or fruit or any other goods, wares, or merchandise at a distance of more than 3 feet from the house or store from which they are being sold.

(City Code, 1879, art. 47, §117; 1893, art. 48, §136; 1927, art. 32, §48; 1950, art. 24, §92; 1966, art.19, §133; 1976/83, art. 19, §158.) (Ord. 1869-068; Ord. 99-548; Ord. 03-595.)

Part 7. Snow and Ice

§ 50-46. Cleaning pavements required.

(a) *In general.*

After any snowfall that results in an accumulation of snow on the ground:

- (1) every person using or occupying in any manner, or for any purpose, any house, store, shop, stable, or tenement of any kind;
- (2) every person having charge of any church or public building of any kind; and
- (3) the owner of any unoccupied house or unimproved lot situated on any paved street, lane, or alley in the City,

must remove and clear away the snow or cause it to be removed and cleared away from the foot pavement fronting the house, store, shop, stable, church, building, or lot.

(b) *Time and manner.*

(1) The snow must be removed and cleared away:

- (i) within 3 hours after the snow has stopped falling; or
- (ii) if the snow stopped falling between 3 p.m. and 6 a.m., before 11 a.m.

(2) The snow must be removed and cleared away in such a way as not to obstruct the passage of water in the gutters.

(City Code, 1879, art. 47, §125(1st sen.); 1893, art. 48, §147(1st sen.); 1927, art. 32, §65(1st sen.); 1950, art. 24, §144(1st sen.); 1966, art. 19, §151(1st sen.); 1976/83, art. 19, §177(a).) (Rev. Ords. 1858-033; Ord. 66-871; Ord. 88-047; Ord. 99-548.)

§ 50-47. Keeping pavements and gutters clear.**(a) *In general.***

Every person described in § 50-46 of this Part must keep the gutters leading to, and the pavements or sidewalks situated in the front, rear, or sides of the premises, free from ice and every obstruction of any kind.

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(*City Code, 1879, art. 47, §125(2nd sen.); 1893, art. 48, §147(2nd sen.); 1927, art. 32, §65(2nd sen.); 1950, art. 24, §144(2nd sen.); 1966, art. 19, §151(2nd sen.); 1976/83, art. 19, §177(b).) (Rev. Ords. 1858-033; Ord. 66-871; Ord. 88-047; Ord. 99-548.)*

SUBTITLE 51
PARK RULES

§ 51-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Park rule.*

“Park rule” means any rule or regulation adopted by the Director of Recreation and Parks under the authority of Article VII, § 67(f) of the City Charter.
(*Ord. 03-572.*)

§ 51-2. Compliance with rules required.

No person may violate a park rule.
(*Ord. 03-572.*)

**ARTICLE 23
SANITATION*****SUBTITLE 2
GARBAGE AND MIXED REFUSE*****§ 2-1. Definitions.****(a) *Garbage.***

The term “garbage”, as used in this article, shall be held to include every accumulation of animal, fruit, or vegetable food waste generated by or resulting from the decay, deterioration, storage, preparation, or handling of animal and vegetable matter in any place or at any point where food is prepared or served for human consumption, including all kitchen and dining refuse produced by households, hotels, restaurants, lunch rooms, clubs, hospitals, or any other source whatsoever existing in Baltimore City.

(b) *Mixed refuse.*

The term “mixed refuse” shall be held to include garbage as herein defined, mingled with any 1 or more of the following: paper, paste-board, rags, mattresses, furniture, clothing, shoes, rubbers, leather, carpets, broken glass, crockery, bottles, straw, excelsior, metal, packing boxes, and barrels, broken parts thereof, tin cans, Christmas trees, leaves, and grass cuttings.

(*City Code, 1927, art. 44, §11; 1950, art. 31, §6(a), (b); 1966, art. 23, §6(a), (b); 1976/83, art. 23, §6(a), (b). (Ord. 19-564; Ord. 49-955.)*)

§ 2-2. Receptacles.**(a) *Receptacles required.***

Occupants of dwelling houses, proprietors of boarding houses, hotels, restaurants, and other places where garbage or mixed refuse is accumulated, and owners, agents, and occupants of apartment or tenement houses:

- (1) shall provide for the use of such premises a sufficient number of receptacles to contain all garbage or mixed refuse which may accumulate on said premises during the usual interval between the collections of garbage or mixed refuse therefrom; and
- (2) shall keep such receptacles at all time in good repair.

(b) *Container specifications.*

Each receptacle shall comply with the requirements specified in the Property Maintenance Code. (*City Code, 1950, art. 31, §3; 1966, art. 23, §3; 1976/83, art. 23, §3. (Ord. 49-955; Ord. 02-475.)*)

§ 2-3. Handling.

(a) *Placement in receptacles.*

Occupants of any dwelling house, apartment, or tenement house, and each proprietor of any boarding house, hotel, restaurant, and other place where garbage or mixed refuse is accumulated shall cause all such garbage or mixed refuse from such premises to be put into the receptacle or receptacles provided for that purpose, as required by § 2-2.

(b) *Covering and placement.*

Each person aforesaid:

(1) shall cause each such receptacle to be kept covered continually, except when it is being filled or emptied; and

(2) shall cause each such receptacle to be placed:

(i) in such position as to be easily accessible to the collector; or

(ii) in such manner and at such time or times as may be designated by the Director of Public Works.

(c) *Garbage, etc., to be kept dry.*

All garbage and mixed refuse shall, at all times, be kept as free from dishwater and as dry as practicable.

(City Code, 1879, art. 23, §92; 1893, art. 48, §189; 1927, art. 44, §8; 1950, art. 31, §4; 1966, art. 23, §4; 1976/83, art. 23, §4.) (Ord. 16-138; Ord. 19-564; Ord. 49-955; Ord. 76-144.)

SUBTITLE 4
RECEPTACLES ON COLLECTION DAYS

§ 4-1. General prohibition.

Except as specifically provided in this subtitle, no person may have, keep, or maintain on any street, lane, alley, sidewalk, or other public place in the City, any box, bin, barrel, or other receptacle for the reception of garbage, ashes, litter, or rubbish of any sort.

*(City Code, 1950, art. 31, §8(1st sen.)(1st cl.); 1966, art. 23, §8(1st sen.)(1st cl.); 1976/83, art. 23, §8(a).)
(Ord. 48-473; Ord. 99-548.)*

§ 4-2. Placement on sidewalk for collection.

(a) *In general.*

To facilitate the removal of garbage, ashes, litter, or rubbish on regularly scheduled collection days, the occupant of any premises may:

(1) place suitable receptacles containing garbage, etc., on the sidewalk:

(i) in the rear of the premises; or

(ii) if the rear is not accessible to the collection vehicle, in front or on the side of the premises; and

(2) allow the receptacles to remain until the garbage, etc., has been collected.

(b) *Limitation.*

No receptacle, however, whether filled or empty, may be placed or permitted to remain on any sidewalk for any period longer than necessary under the circumstances at any particular property.

*(City Code, 1950, art. 31, §8(1st sen.)(2nd cl.); 1966, art. 23, §8(1st sen.)(2nd cl.); 1976/83, art. 23, §8(b).)
(Ord. 48-473; Ord. 99-548.)*

**ARTICLE 24
WATER*****SUBTITLE 21
PROHIBITED CONDUCT; PENALTIES*****§ 21-1. Rules and regulations.**

No person may violate any rule or regulation adopted under § 1-1 of this article to protect the City's water supply and facilities.
(*Ord. 02-476.*)

§ 21-2. Suspension, etc., of certain uses.

No person may violate any order issued under § 1-6 of this article to suspend, condition, limit, or temporarily prohibit the use of water.
(*Ord. 02-476.*)

§ 21-3. Injuring fire hydrants.

No person may wilfully injure or deface any fire hydrant belonging to the City.
(*City Code, 1879, art. 53, §57; 1893, art. 54, §57; 1927, art. 48, §70; 1950, art. 39, §13; 1966, art. 29, §13; 1976/83, art. 29, §13.*) (*Rev. Ords. 1858-043; Ord. 1859-080; Ord. 50-1141; Ord. 02-476.*)

§ 21-4. Wrongful use after cut-off.

No person may, without authorization from the Department of Public Works, connect with any water pipe that belongs to the City or otherwise turn on the water to any premises to which the water was turned off by an officer of the Department.
(*City Code, 1893, art. 54, §42; 1927, art. 48, §55; 1950, art. 39, §32; 1966, art. 29, §27; 1976/83, art. 29, §27.*) (*Rev. Ords. 1858-043; Ord. 1880-043; Ord. 50-1393; Ord. 76-142; Ord. 02-476.*)

§ 21-5. Refusal of entry.

No person may refuse to permit an agent of the Department of Public Works to visit his, her, or its premises in the discharge of that agent's official duties.
(*City Code, 1879, art. 53, §43; 1893, art. 54, §43; 1927, art. 48, §56; 1950, art. 39, §33; 1966, art. 29, §28; 1976/83, art. 29, §28.*) (*Rev. Ords. 1858-043; Ord. 50-1393; Ord. 02-476.*)

§ 21-6. Interference with equipment; illegal use of water.**(a) *Scope of section.***

This section does not apply to the lawful governmental regulation of water companies, their canals, springs, reservoirs, tunnels, mounds, dams, plugs, fire hydrants, mains, pipes, conduits, connections, taps, valves, engines, and machinery.

(b) *Prohibited conduct.*

Unless authorized by law or by permit from the Department of Public Works, no person may:

- (1) connect, disconnect, tap, or interfere or tamper with any of the canals, springs, reservoirs, tunnels, mounds, dams, plugs, fire hydrants, mains, pipes, conduits, connections, taps, valves, engines, or machinery belonging to the City;
- (2) connect with any canal, spring, reservoir, tunnel, mound, dam, plug, fire hydrant, main, pipe, conduit, connection, tap, valve, engine, or machinery for the purpose of using or wasting water;
- (3) tamper in any way with any meter used to register water consumption; or
- (4) introduce water to any premises not entitled to use it.

(City Code, 1976/83, art. 29, §14.) (Ord. 94-346; Ord. 02-476.)

ARTICLE 31
TRANSIT AND TRAFFIC

SUBTITLE 16
USE-OF-THE-ROAD REGULATIONS

§ 16-12. Vehicles on sidewalk.

(a) *Prohibited conduct.*

No person may back, draw, move, propel, drive, or operate any motor vehicle of any kind or any vehicle of any kind that is drawn by a horse or mule on or over any sidewalk or curbing of the City unless:

- (1) the curbing is lowered to grade and the sidewalk so paved and arranged as to allow the passage of these vehicles; or
- (2) the person has special permission to do so from the Director of Public Works.

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(*City Code, 1893, art. 48, §138; 1927, art. 32, §52; 1950, art. 24, §96; 1966, art. 19, §135; 1976/83, art. 19, §160.*) (*Ord. 1885-033; Ord. 26-756; Ord. 45-267; Ord. 77-573; Ord. 99-548; Ord. 03-595.*)

BUILDING, FIRE, AND RELATED CODES – FIRE CODE***CHAPTER 1
ADMINISTRATION*****§ 110. Unsafe Buildings.**

110.1 General. If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the Code Official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the Building Department for any repairs, alterations, remodeling, removing or demolition required.

110.1.1 Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by § 311 shall be deemed unsafe.

110.1.2 Structural hazards. When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this Code, the Code Official shall immediately notify the Building Code Official in accordance with § 110.1.

(Ord. 02-475.)

CHAPTER 10
MEANS OF EGRESS

§ 1001. General.

1001.2 Minimum requirements. It shall be unlawful to alter a building or structure in a manner that will reduce the number of exits or the capacity of the means of egress to less than required by this Code.

1001.3 Overcrowding. A person may not permit overcrowding or admit any other person beyond the approved occupant load.

1001.3.1 Action by Code Official — When. The Code Official may take the action described in § 1001.3.2 whenever the Code Official finds:

- a. overcrowded conditions,
- b. obstruction in aisles, passageways, or other means of egress, or
- c. any other condition that constitutes a hazard to life and safety.

1001.3.2 Action by Code Official — What. In circumstances described in § 1001.3.1, the Code Official may:

- a. cause the occupancy, performance, presentation, spectacle, or entertainment to be stopped until the condition or obstruction is corrected, and
- b. prohibit the addition of any further occupants until the approved occupant load is reestablished.

(Ord. 02-475.)

BUILDING, FIRE, AND RELATED CODES – PROPERTY MAINTENANCE CODE**CHAPTER 3
GENERAL REQUIREMENTS****§ 304. Exterior Sanitary Maintenance – General.**

304.1 General. All lots and exterior premises, including abutting sidewalks, gutters, and alleys, must be maintained in a clean, safe, and sanitary condition.

304.2 Grass and weeds.

304.2.1 “Weeds” defined. In this section, “weeds” includes all plants and vegetation other than:

- a. trees or shrubs, or
- b. cultivated flowers and gardens.

304.2.2 Maintenance requirements. All premises and exterior property must be maintained free of grass, weeds, or plant growth in excess of 8 inches (203 mm). All noxious weeds are prohibited.

304.3 Trees and shrubbery. All trees and shrubbery that are dangerous to life and property, that create a fire or traffic hazard, or that encroach on adjacent property must be pruned or removed to eliminate the danger, hazard, or encroachment.

304.4 Pest control. All exterior property areas must be kept free from infestation by insects, rodents, and other pests, from rodent harborage, and from the conditions that attract pests. Where pests are found, they must be promptly exterminated by approved processes that will not be injurious to human health.

304.5 Motor vehicles. Except only as otherwise expressly authorized by law, the following rules apply to all motor vehicles.

- a. no motor vehicle may be parked, kept, or stored, whether or not covered, on any exterior premises if:
 - 1. it is inoperative, unregistered, or fails to display current registration tags, or
 - 2. it is in a state of disassembly or disrepair or in the process of being stripped or dismantled.
- b. A motor vehicle may be parked, kept, or stored only on a dustless all-weather surface constructed and maintained in accordance with the Building Code and Zoning Code of Baltimore City.
- c. Painting a motor vehicle is prohibited unless conducted inside an approved spray booth.

Exception: On premises with a proper use permit, a vehicle may undergo overhaul, including body work, if that work is performed inside a structure or similarly enclosed area designed and approved for that purpose.

304.6 Swimming pools. Swimming pools must be maintained in a clean, safe, and sanitary condition.

304.7 Outdoor storage. Outdoor storage must be neat and orderly. All stored objects and materials must be elevated at least 1 foot off the ground to prevent rat harborage, unless elevation is determined unnecessary by the commissioner.

304.7.1 Caveat. Nothing in this section authorizes any outdoor storage that is otherwise prohibited by law.

(Ord. 02-475.)

§ 305. Exterior Sanitary Maintenance – Trash, Garbage, and Debris.

305.1 Accumulation prohibited. All premises, including abutting sidewalks, gutters, and alleys, as well as the interior of every structure, must be kept free of any accumulation of trash, garbage, and debris, including any animal waste, construction material, equipment, furniture, appliances, and similar objects and materials.

305.2 Bulk trash. If discarded or abandoned articles are too large to be disposed of in required receptacles, they must be conveyed to an appropriate landfill or other approved disposal site.

305.3 No deposit on sidewalks, etc. No trash, garbage, or debris may be deposited on any sidewalk, alley, or street or on any public or private lot.

305.4 Storage receptacles – Required. Trash, garbage, or debris may not be stored or placed out for collection except in proper storage receptacles. A sufficient number of these storage receptacles must be provided, in a location accessible to occupants, to receive and store trash, garbage, and debris from individual units between days of collection.

305.5 Storage receptacles – Location. If, in the opinion of the Code Official, the exterior maintenance of storage receptacles is causing nuisance or blight, the Code Official may require that, between days of collection, the receptacles be stored:

- a. inside the building they serve , or
- b. in the discretion of the Code Official, within a contiguous structure.

305.6 Storage receptacles – Construction and maintenance. Each storage receptacle must be:

- a. made of metal or some other durable material approved by the Code Official,
- b. watertight, with tight-fitting covers and handles,
- c. maintained in good repair,

- d. kept tightly closed to prevent blight, nuisance, pest infestation, and dispersal of trash, garbage, or debris, and
- e. have a capacity of:
 - 1. not less than 3 gallons, and
 - 2. not more than:
 - (i) 10 gallons, if used for garbage only, or
 - (ii) 20 gallons, if used for mixed refuse, as defined in City Code Article 23, § 2-1.

305.7 Placement for collection. Storage receptacles:

- a. may not be placed out for collection on a sidewalk or along an alley earlier than the day of collection, and
- b. must be returned promptly to the premises after collection.

305.8 Owner transport. At any multi-unit building for which the City does not provide collection services, the owner and operator must collect and transport the building's trash, garbage, and debris to an appropriate landfill or other approved disposal site.

(Ord. 02-475.)

§ 306. Interior Sanitary Maintenance.

306.1 General. The interior of each unit and the shared, common, or public areas within each building that contains more than one unit must be maintained in a clean and sanitary condition.

306.2 Floor, furniture, etc., surfaces. Floors, furniture, countertops, and similar surfaces must be clean and free of trash, garbage, and debris, including human and animal waste and any other insanitary matter or cause of nuisance.

306.3 Walls, ceilings, and openings. Walls, ceilings, windows, and doorways must be clean and free of dirt, grease, soot, and any other insanitary matter or cause of nuisance.

306.4 Trash, etc., receptacles. Each unit must have a sufficient number of interior receptacles to contain that unit's trash, garbage, and debris.

306.5 Plumbing fixtures. Plumbing fixtures must be kept clean and free from any foreign object or material that could obstruct a fixture or a line connected to a fixture.

306.6 {Reserved}

306.7 Pest control. The interior of every building must be kept free of infestation by insects, rodents, and other pests.

(Ord. 02-475.)

§ 307. Occupants' Sanitary Responsibilities.

307.1 General. An occupant must keep in a clean and sanitary condition the occupant's unit and any other part of the premises that the occupant occupies or controls.

307.2 Exteriors. An occupant of a single-unit building and an occupant of a unit with exclusive use of an exterior property area must maintain the exterior areas, including abutting sidewalks, gutters, and alleys, in compliance with §§ 304 and 305 of this Chapter.

307.3 Interiors. Except as otherwise specified in § 307.5, an occupant must maintain the interior of the occupant's unit and any other part of the building that the occupant occupies or controls in compliance with § 306 of this Chapter.

307.4 Pest control – Single-unit building. An occupant of a single-unit building is responsible for extermination of insects, rodents, or other pests, other than wood-destroying insects.

307.5 Pest control – Multi-unit building. An occupant of a multi-unit building is responsible for extermination if the occupant's unit is the only one affected.

307.6 Trash disposal. An occupant may dispose of trash, garbage, and debris only in compliance with § 305 of this Chapter.

307.7 Trash receptacles for single-unit building. An occupant of a single-unit building must provide and maintain the storage receptacles required by § 305 of this Chapter.

307.8 Nuisances. An occupant may not create or maintain, in or on the property that the occupant occupies and controls, any condition that constitutes a nuisance.

(Ord. 02-475.)

HEALTH CODE***TITLE 4
DISEASE CONTROL******Subtitle 6. Screening for Lead Poisoning*****§ 4-601. Parental responsibility.**

Except as specified in § 4-603 {"Exceptions"} of this subtitle, every parent and guardian must provide for the timely and appropriate testing for lead poisoning of his or her minor children, as specified by the Commissioner's rules and regulations.

(Ord. 00-020.)

§ 4-603. Exceptions.

This Part I does not apply to any child whose parent or guardian, in accordance with the rules and regulations of the State Secretary of Health and Mental Hygiene, objects to testing on the ground that it conflicts with the parent's or guardian's bona fide religious beliefs and practices.

(Ord. 00-020.)

TITLE 5
NUISANCE CONTROL

Subtitle 2. Nuisance Abatement – Generally

§ 5-201. Responsibility of persons in charge.

Every person in charge of any property is obligated, jointly and severally with all other persons in charge of that property, to:

(1) remove or abate all nuisances on or originating from the property; and

(2) comply with all health- or safety-related laws that affect the property.

(City Code, 1976/83, art. 11, §112(3rd cl.).) (Ord. 99-548.)

§ 5-202. Notice to persons in charge.

Whenever the Commissioner of Health discovers a condition that the Commissioner considers to be a nuisance or potential nuisance, the Commissioner may issue a written notice to one or more of the following persons or their respective agents:

(1) the person in charge of the property on which the condition exists;

(2) the person in charge of the property from which the condition originates; and

(3) the person in charge of any property that fronts on the street in which the condition exists.

(City Code, 1976/83, art. 11, §§102(2nd cl.), 108(1st cl.(part)).) (Ord. 99-548.)

§ 5-210. Penalties.

Any person in charge who refuses, neglects, or otherwise fails to comply with a notice issued under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

(City Code, 1976/83, art. 11, §102(5th cl.).) (Ord. 99-548.)

Subtitle 4. Lead-Based Paint**§ 5-401. Definitions.**

(b) *Lead-based paint.*

“Lead-based paint” has the meaning stated in § 6-801(j) of the State Environment Article.
(*City Code, 1976/83, art. 11, §72(part).*) (*Ord. 99-548.*)

§ 5-402. Warning label required.

No person may possess, offer for sale, sell, or give away in the City any lead-based paint unless it bears the following or substantially equivalent warning:

“WARNING — Contains Lead. Harmful if Eaten. Do not apply on any interior surfaces of a dwelling, or of a place used for the care of children, or on window sills, toys, cribs, or other furniture.”

(*City Code, 1976/83, art. 11, §72.*) (*Ord. 99-548.*)

§ 5-403. Placement.

The warning required by this subtitle must:

- (1) appear in a conspicuous place on the paint’s immediate container;
- (2) form an integral part of the printed label on that container; and
- (3) be printed in letters that are legible and that conspicuously contrast with any other printing on the container.

(*City Code, 1976/83, art. 11, §§73, 74(2nd sen.).*) (*Ord. 99-548.*)

§ 5-404. Labels not to indicate interior use.

No label on a container of lead-based paint may indicate in any way that the product is suitable for interior surfaces of dwellings or for interior surfaces of any places used for the care of children.

(*City Code, 1976/83, art. 11, §75.*) (*Ord. 99-548.*)

Subtitle 5. Bodily Wastes

§ 5-501. Spitting in public places.

No person may spit on:

- (1) any footpath or sidewalk of any public street or public square;
- (2) the floor or anywhere else in any public building under the control of the Mayor and City Council of Baltimore;
- (3) the floor, platform, or steps of any railroad, bus, or other common carrier or of any depot or station;
- (4) the floor or steps of any theater, store, factory, or other building that is used in common by the public;

(5) the floor of any hall or office used in common by the guests of a hotel or lodging house.
(*City Code, 1976/83, art. 11, §138.*) (*Ord. 99-548.*)

§ 5-503. Urinating or defecating in public places – in general.

No person may urinate or defecate on or about:

- (1) any public place, way, or park; or
- (2) the mall or adjacent parking area of any shopping center.

(*City Code, 1976/83, art. 19, §171A(a)(1st cl.)*.) (*Ord. 99-548.*)

§ 5-504. Urinating or defecating in public places – parents or guardians of minors.

A parent or guardian may not knowingly permit a minor for whom the parent or guardian is responsible to violate § 5-503 {“Urinating or defecating in public places – in general”} of this subtitle.

(*City Code, 1976/83, art. 19, §171A(b)(3)(i.)*.) (*Ord. 99-548.*)

Subtitle 7. Weeds**§ 5-701. Responsibility of persons in charge.**

Every person in charge of any property is obligated, jointly and severally, to comply with the requirements of this subtitle.

(Ord. 99-548.)

§ 5-702. Cutting grass, weeds, etc., required.

No person in charge of any land may allow any grass, weeds, or other rank vegetation on that land to reach a height of 8 inches or more.

(City Code, 1976/83, art. 11, §161(1st cl.)) (Ord. 99-548.)

§ 5-703. Destroying noxious weeds, etc., required.

(a) In general.

Every person in charge of any land must keep that land free from ragweeds, wild mustard, wild lettuce, wild parsley, common thistle, milkweed, poison ivy, and all other noxious weeds.

(b) Permitted methods.

The person in charge must destroy any noxious weeds on the land by:

- (1) spraying with a chemical compound approved by and applied in accordance with the requirements of the United States Environmental Protection Agency;
- (2) cutting and removal;
- (3) digging under; or
- (4) any other method that the Commissioner approves.

(City Code, 1976/83, art. 11, §161(2nd cl.)) (Ord. 99-548.)

TITLE 6
FOOD SERVICE FACILITIES

Subtitle 1. Definitions; General Provisions

§ 6-101. Definitions.

(b) *Food.*

(1) *In general.*

“Food” means any natural or artificial substance or ingredient, whether raw, cooked, or processed, that is used or sold or intended for use or sale, in whole or in part, for human consumption.

(2) *Inclusions.*

“Food” includes:

(i) ice;

(ii) beverages; and

(iii) chewing gum or any substance used as a component of chewing gum.

(3) *Exclusions.*

“Food” does not include any:

(i) alcoholic beverage, as defined in State Code Article 2B, § 1-102(a)(2); or

(ii) drug, as defined in § 21-101(g) of the State Health-General Article.
(*City Code, 1976/83, art. 11, §§64(1st, 2nd cls.), 165(a)1.*) (*Ord. 99-548.*)

(c) *Food service facility.*

(1) *In general.*

“Food service facility” means any place in which, with or without charge:

(i) food is prepared for sale or service on the premises or elsewhere; or

(ii) food is manufactured, processed, stored, packaged, handled, distributed, or sold.

(2) *Exclusions.*

“Food service facility” does not include any private residence in which food is prepared for consumption, without charge, by residents and their guests.
(*City Code, 1976/83, art. 11, §165(a)2.*) (*Ord. 99-548.*)

(d) *Food service manager.*

“Food service manager” means an individual designated by a food service facility to exercise operational supervision of the facility.

(City Code, 1976/83, art. 11, §165(a)2b.) (Ord. 99-548.)

§ 6-105. Confiscation of food.

(b) *Prohibited conduct.*

No person may hide, remove, or assist in hiding or removing any food that has been condemned by the Commissioner.

(City Code, 1976/83, art. 11, §§60, 65(2nd cl.).) (Ord. 99-548.)

Subtitle 2. License Required

§ 6-201. In general.

No person may operate a food service facility without a license to do so from the Commissioner of Health.

(City Code, 1976/83, art. 11, §165(b)(1)(1st sen.).) (Ord. 99-548.)

§ 6-206. Material alterations.

(a) *Permit required.*

No person may materially alter a food service facility (e.g., install new or additional equipment, make structural changes, or change the type of operation) without a permit to do so from the Commissioner.

(City Code, 1976/83, art. 11, §165(c)(parts).) (Ord. 99-548.)

Subtitle 3. Food Service Managers

§ 6-301. Certain facilities to employ manager.

Each high priority or moderate priority food service facility must employ a food service manager.

(City Code, 1976/83, art. 11, §165(a)2b(part).) (Ord. 99-548.)

§ 6-302. Managers to be certified.

A food service manager who is employed by a high priority or moderate priority food service facility must, within 90 days of becoming employed by the facility, be certified by the Commissioner of Health in accordance with this subtitle.

(City Code, 1976/83, art. 11, §165(b)(2), (b-1)(1).) (Ord. 99-548.)

Subtitle 5. Miscellaneous Regulations**§ 6-501. Definitions.****(b) *Adulterated food.***

“Adulterated food” means any food that:

- (1) has been prepared, manufactured, processed, stored, packaged, handled, distributed, or sold under insanitary conditions that reasonably could be expected to have contaminated it;
- (2) is considered to be adulterated within the meaning of the Maryland Food, Drug, and Cosmetic Act; or

- (3) otherwise violates the requirements of the Maryland Food, Drug, and Cosmetic Act.

(City Code, 1976/83, art. 11, §64(part).) (Ord. 99-548.)

(c) *Unwholesome food.*

“Unwholesome food” means any food that:

- (1) has absorbed or mixed with deleterious gases, liquids, or solids;
- (2) is decomposed, rotten, tainted, or otherwise impure; or
- (3) is otherwise in any way:

- (i) deleterious to health;

- (ii) liable to introduce, cause, or increase sickness; or

- (iii) liable to impair or upset functions of the human body.

(City Code, 1976/83, art. 11, §64(part).) (Ord. 99-548.)

§ 6-502. Compliance with health laws required.

Each food service facility must comply with all applicable health laws, rules, and regulations of the federal government, the State of Maryland, and the City of Baltimore.

(City Code, 1976/83, art. 11, §165(e).) (Ord. 99-548.)

§ 6-503. Disguising adulterated, etc., food prohibited.

No food service facility may use any acid, drug, chemical, coloring, or other substance to disguise any adulterated or unwholesome food.

(City Code, 1976/83, art. 11, §§58(1st sen.), 59(last cl.)) (Ord. 99-548.)

§ 6-504. Possession, etc., of adulterated, etc., food prohibited

No food service facility may sell, offer for sale, transport, or have on its premises, in any vehicle, or on the premises of any other person any adulterated or unwholesome food.

(City Code, 1976/83, art. 11, §59(last cl.)) (Ord. 99-548.)

§ 6-505. Frozen food regulations.

(a) *Definitions.*

(1) *In general.*

In this section, the following term have the meanings indicated.

(2) *Defrost.*

“Defrost” means to allow any frozen food to thaw so that it is not readily recognizable as frozen food.

(3) *Frozen food.*

“Frozen food” means any food that has been kept at or below 0°F.

(b) *Representing defrosted food as fresh prohibited.*

No food service facility may represent or advertise as fresh any frozen food that has been allowed to defrost.

(c) *Selling certain defrosted food prohibited.*

No food service facility may sell or offer for sale any food designed to be sold frozen (such as “TV dinners”, packaged fruits, and frozen desserts) if it has been allowed to defrost.

(d) *Certain defrosted food to be labeled.*

No food service facility may sell or offer for sale any meat, fish, seafood, or poultry that, in whole or in part, has been frozen and then allowed to defrost unless a notice stating “this product has been frozen and thawed” is:

- (1) conspicuously displayed on a sign; and

(2) attached to each package or item of meat, fish, seafood, or poultry.
(*City Code, 1976/83, art. 11, §67.*) (*Ord. 99-548.*)

§ 6-505.1. Dated food products.

(a) *Definitions.*

(2) *Dated food.*

“Dated food” means any food that contains an expiration date on its label or packaging.

(3) *Expiration date.*

“Expiration date” means:

- (i) any date designated as an “expires on” date, “sell by” date, “pull by” date, “use by” date, or “best if used by” date; or
- (ii) any similar time guide for the sale or use of a food product by food service facilities or consumers.

(b) *Notice after expiration date.*

(1) No food service facility may sell or offer for sale any dated food after its expiration date unless that food is:

- (i) segregated from its non-expired food counterpart; and
- (ii) accompanied by a conspicuous notice that states: “This Food is Being Sold Past Its Expiration Date”.

(2) The notice required by this subsection must be:

- (i) on a sign at least 11" by 14"; and
- (ii) printed in letters at least 1" high.

(c) *Perishable, etc., foods.*

Nothing in this section authorizes:

- (1) the sale of any perishable food, such as milk, cheese, meat, eggs, and baby food, past its expiration date; or
- (2) the sale or possession of any adulterated or unwholesome food.

(d) *Altering, etc., expiration date.*

No food service facility may alter, remove, cover, disguise, or otherwise obscure the expiration date of any dated food.

(Ord. 02-438.)

§ 6-506. Litter and rubbish prohibited.

(a) *In general.*

Each food service facility must keep its entire premises, including all abutting sidewalks, alleys, footpaths, gutters, and other public rights-of-way, free of litter and rubbish.

(City Code, 1976/83, art. 11, §165A.) (Ord. 99-548.)

***TITLE 7
WASTE CONTROL***

Subtitle 1. Definitions; General Provisions

§ 7-101. Definitions.

(b) *Dispose.*

“Dispose” includes abandon, deposit, discard, discharge, dump, junk, leave, place, scrap, or throw.

(City Code, 1976/83, art. 11, §264(b)(2).) (Ord. 99-548.)

(c) *Garbage.*

“Garbage” means waste that results from the distribution, preparation, or serving of food.

(City Code, 1976/83, art. 11, §221(c).) (Ord. 99-548.)

(d) *Hauler.*

(1) *In general.*

“Hauler” means any person who:

- (i) contracts with others for the collection, transportation, or disposal of solid waste; or
- (ii) except as specified in paragraph (3) of this subsection, engages in the collection, transportation, or disposal of solid waste generated by that person him-, her-, or itself.

(2) *Inclusions.*

“Hauler” includes a person described in paragraph (1) of this subsection even if that person is operating under a demolition permit issued by the City.

(3) *Exclusions.*

“Hauler” does not include any person who occupies residential property and collects, transports, or disposes of solid waste generated by the residential use of that property.

(City Code, 1976/83, art. 11, §§266(c)(parts), 267(a).) (Ord. 99-548.)

(e) *Land clearance debris.*

“Land clearance debris” means any trees, other vegetation, or their roots that result from land clearance for streets, parks, playgrounds, construction projects, or other similar projects.

(City Code, 1976/83, art. 11, §221(d).) (Ord. 99-548.)

(f) *Landfill*.

“Landfill” means any private or public property where waste is disposed of by placement on or burial in the ground.

(Ord. 99-548.)

(g) *Rock*.

“Rock” means rock, stones, or boulders that result from land clearance, grading, and the preparation of construction sites and similar projects.

(City Code, 1976/83, art. 11, §221(e).) (Ord. 99-548.)

(h) *Rubbish*.

“Rubbish” includes paper, rags, ashes, leaves, tree branches, yard trimmings, furniture, appliances, cans, glass, crockery, junk vehicles, tires, automotive parts, paints, and oils.

(City Code, 1976/83, art. 11, §221(g).) (Ord. 99-548.)

(i) *Rubble*.

(1) *In general*.

“Rubble” means any waste that results from the demolition of buildings, structures, or streets.

(2) *Inclusions*.

“Rubble” includes masonry, concrete, asphalt, wood, plaster, paper, glass, metal, roof materials, or other materials used in the construction of buildings, structures, or streets.

(City Code, 1976/83, art. 11, §221(b), (f).) (Ord. 99-548.)

(j) *Solid waste*.

“Solid waste” means all waste that is neither gaseous nor liquid.

(City Code, 1976/83, art. 11, §266(b)(1st sen.).) (Ord. 99-548.)

(k) *Trade waste*.

(1) *In general*.

“Trade waste” means waste that results from construction or from any other business, commercial, or industrial operation.

(2) *Inclusions*.

“Trade waste” includes plastics, cartons, chemicals, paints, greases, oils, and other petroleum products, sawdust, and dead animals.

(City Code, 1976/83, art. 11, §221(h).) (Ord. 99-548.)

(1) *Waste.*(1) *Defined inclusions.*

“Waste” includes any of the following material, as defined in this section, whether putrescible or nonputrescible:

- (i) garbage;
- (ii) land clearance debris;
- (iii) rock;
- (iv) rubbish;
- (v) rubble; and
- (vi) trade waste.

(2) *Additional inclusions.*

“Waste” also includes any of the following material, whether putrescible or nonputrescible:

- (i) asbestos;
- (ii) ashes;
- (iii) dead animals;
- (iv) hazardous waste;
- (v) incinerator residue;
- (vi) medical waste;
- (vii) refuse;
- (viii) street cleanings;
- (ix) trash; and

- (x) wastewater treatment residue.

(City Code, 1976/83, art. 11, §§221(a)(1st cl.), 266(b)(2nd sen.), art. 23, §22(a)(7).) (Ord. 99-548.)

Subtitle 2. Solid Waste Collection**§ 7-201. Definitions.**

. . . .

(c) *Small hauler.*

“Small hauler” means a hauler that uses only 1 truck for which the manufacturer’s rated capacity is $\frac{3}{4}$ ton or less and the gross weight of which is 7,000 pounds or less.
(*City Code, 1976/83, art. 11, §266(c).*) (*Ord. 99-548.*)

§ 7-202. Scope of subtitle.

This subtitle does not apply to:

(1) any person while employed by or under contract with the City for public work; or

(2) a 1- or 2-day community clean-up where neighbors join in to pay the cost of hiring a truck.
(*City Code, 1976/83, art. 11, §§267(a)(1st sen.), 267(f).*) (*Ord. 99-548.*)

§ 7-205. License required.

No person may operate as a hauler in the City without a license to do so from the Commissioner of Health.
(*City Code, 1976/83, art. 11, §267(a), (a-1).*) (*Ord. 99-548.*)

§ 7-218. Identification of vehicles.**(a) *In general.***

(1) Except as specified in subsection (b) of this section, every vehicle used by a hauler to collect, transport, or dispose of waste must be identified as specified in this subsection.

(2) The name and business telephone number of the hauler must be displayed:

(i) on both sides of the vehicle; and

(ii) in lettering that:

(A) conspicuously contrasts with its background; and

(B) is of a size, shape, and color to be readily legible, during daylight hours, from a distance of 50 feet while the vehicle is stationary.

(3) The required display may be on removable devices.

(b) *Small haulers.*

Every vehicle used by a small hauler must have its license displayed inside the vehicle in a way that is visible at all times from outside the vehicle.
(City Code, 1976/83, art. 11, §269(d), (h).) (Ord. 99-548.)

§ 7-219. Identification of containers.

(a) *In general.*

Each waste container that has a capacity of 2 cubic yards or more must be labeled with:

- (1) the name of the licensee; and
- (2) an identification number assigned by the Commissioner.

(b) *Form.*

The label must be:

- (1) on the outside of the container; and
- (2) in permanent lettering that is:
 - (i) plainly distinguishable; and
 - (ii) at least 3 inches high.

(City Code, 1976/83, art. 11, §269(e).) (Ord. 99-548.)

§ 7-220. Sanitation requirements.

(a) *Preventing spills.*

Each licensee must:

- (1) comply with the requirements of Subtitle 3 {"Transporting Waste"} of this title;
- (2) cover or tie down all solid waste being transported on an open-type vehicle so as to prevent spillage; and
- (3) take all other action necessary to prevent leakage or loss of any waste from either containers or vehicles.

(b) *Cleaning vehicles.*

Each vehicle used to collect, transport, or dispose of waste must be maintained in a clean condition that minimizes odors and prevents insect and rodent breeding.
(City Code, 1976/83, art. 11, §269(a) - (c).) (Ord. 99-548.)

§ 7-221. Hours of collection.*(a) In general.*

Except as specified in subsection (b) of this section, no hauler may collect solid waste in the City before 7 a.m. or after 11 p.m. on any day, weekends and legal holidays included.

(b) Nonresidential areas.

A licensee may collect solid waste at any time from a business, commercial, industrial, institutional, or other nonresidential use structure as long as no residential structure is within 100 feet of any collection point.

(City Code, 1976/83, art. 11, §26(f).) (Ord. 99-548.)

§ 7-222. Daily log.*(a) Driver to keep.*

The driver of any vehicle being used under a hauler's license must keep a daily log that includes, for each collection of solid waste:

- (1) the location from which the waste is collected;
- (2) the general nature of the solid waste;
- (3) the name of the customer from whom the waste is collected; and
- (4) when, where, and how the waste was disposed of.

(b) Inspection.

The licensee must permit the Commissioner to inspect this log at any time during regular business hours.

(City Code, 1976/83, art. 11, §269(g).) (Ord. 99-548.)

§ 7-226. Prohibited conduct.

No person may contract with or hire any hauler who is not licensed under this subtitle.

(City Code, 1976/83, art. 11, §267(b).) (Ord. 99-548.)

Subtitle 3. Transporting Waste**§ 7-301. Coverings and containers required.****(a) *In general.***

Every vehicle that transports waste on the streets of this City, including vehicles used by the City, must be equipped with adequate coverings and containers to prevent the spilling or dropping of any waste.

(b) *Construction.*

The vehicle and all waste containers must:

(1) be strong and tight;

(2) have sides high enough above the load that no part of the load can fall, leak, or spill; and

(3) be covered with heavy canvas or other substantial material.

(City Code, 1976/83, art. 11, §121(2nd sen.), art. 23, §§15, 16.) (Ord. 99-548.)

§ 7-302. Loading and care.**(a) *In general.***

No person may allow any vehicle or container to be so fully loaded, in such bad repair, of such faulty construction, or so improperly operated that any waste can fall, leak, or spill.

(b) *Care by drivers, etc.*

No person driving, loading, unloading, or cleaning any vehicle or container used to carry waste may do so or permit any other person to do so in any way that is needlessly offensive or filthy in respect to any person or property.

(City Code, 1976/83, art. 23, §§17, 18(1st cl.)) (Ord. 99-548.)

§ 7-304. Replacement of spills.

If any material falls, leaks, or spills from a vehicle or container, the individual operating the vehicle or in charge of the container must immediately stop and remove and secure the fallen, leaked, or spilled material.

(City Code, 1976/83, art. 11, §121(3rd sen.(last cl.)), art. 23, §18(2nd cl.)) (Ord. 99-548.)

Subtitle 4. Landfills**§ 7-402. Exceptions from subtitle.**

This subtitle does not apply to:

(1) the random placement of broken stones or rubble as a foundation sustaining wall, or similar structure to control erosion; or

(2) to the otherwise lawful filling of land exclusively with earth fill material that contains:

(i) no more than 10% organic matter or rubble by volume; and

(ii) no object larger than 12 inches in any dimension.

(City Code, 1976/83, art. 11, §§221(a)(2nd cl.), 221(1), 224.) (Ord. 99-548.)

§ 7-406. License required.

No person may operate a landfill in the City without a license to do so from the Commissioner of Health.

(City Code, 1976/83, art. 11, §222(b).) (Ord. 99-548.)

§ 7-411. Notice of changed information.

A licensee must immediately notify the Commissioner of any change in any of the information contained in or accompanying the licensee's application for a license or a renewal.

(City Code, 1976/83, art. 11, §223(a)(1)(2nd cl.).) (Ord. 99-548.)

Subtitle 6. Prohibited Disposal

§ 7-601. In general.

No person may dispose of any waste or other material except:

(1) in a receptacle and at a location approved by law for waste disposal;

(2) at a licensed landfill; or

(3) at any other disposal site authorized by law to receive waste.

(City Code, 1976/83, art. 11, §§135(c), 220, 222(a), 264(c), art. 23, §13.) (Ord. 99-548.)

§ 7-602. Disposing of offensive materials.

(a) *In general.*

No person may dispose of or permit to discharge or flow onto any public or private property, with or without the owner's permission, any liquid or solid matter that is or that, after exposure to the atmosphere or otherwise, is likely to become offensive or otherwise a nuisance.

(b) *Illustrations.*

This section applies to, among other things, any:

- (1) blood;
- (2) refuse coal oil;
- (3) dead animal or part of an animal;
- (4) domestic or sanitary sewage;
- (5) excrement;
- (6) filth;
- (7) foul or nauseous liquid;
- (8) garbage;
- (9) slaughter house or other trade cleanings;
- (10) stagnant water; or
- (11) offensive matter of any kind.

(City Code, 1976/83, art. 11, §119, inter alia.) (Ord. 99-548.)

§ 7-603. Dumping on public property.

No person may dump or dispose of any wire, glass, nails, garbage, waste, or any other matter in or on any gutter, sidewalk, street, open space, wharf, or other public place.

(City Code, 1976/83, art. 19, §§167, 172.) (Ord. 99-548.)

§ 7-604. Dumping on private property.

No person may dump or otherwise dispose of any earth, dirt, sand, ashes, gravel, rocks, garbage, waste, or any other matter on any private property without the permission of the property owner or the owner's agent.

(City Code, 1976/83, art. 11, §§135, 160(1st cl.)) (Ord. 99-548.)

§ 7-605. Burning waste.

No person may burn or cause to be burned any garbage or other waste except as specifically authorized by law.

City Code, 1976/83, art. 11, §137, art. 23, §14.) (Ord. 99-548.)

§ 7-608. Material from vehicle.

The registered owner of a vehicle is prima facie responsible for any waste or other material disposed of from that vehicle.

(City Code, 1976/83, art. 11, §136(3rd sen.)) (Ord. 99-548.)

Subtitle 7. Littering**§ 7-701. “Litter” defined.**

“Litter” means to discard or otherwise dispose of, in any way other than as authorized by § 7-601 of this title, of small amounts of paper, beverage containers, glass, garbage, or other waste that:

(1) weigh less than 1 pound;

(2) comprise less than 1 cubic foot; and

(3) are not toxic, noxious, or otherwise a threat to the public health or safety.

(City Code, 1976/83, art. 11, §254(b), (c)(part).) (Ord. 99-548.)

§ 7-702. Littering prohibited.

No person may:

(1) litter on any public or private property; or

(2) permit the accumulation of litter on any property under that person’s control.

(City Code, 1976/83, art. 11, §264(c).) (Ord. 99-548.)

TITLE 8
AIR POLLUTION

Subtitle 1. Prohibited Emissions

§ 8-101. Definitions.

(b) *Air pollution.*

“Air pollution” means the presence in the outdoor atmosphere of any odor, solid, vapor, liquid, gas, or other substance in such quantities and of such duration that it:

(1) can be predicted with reasonable certainty to be injurious to property or to human, plant, or animal life; or

(2) unreasonably interferes with the proper enjoyment of the property of others or with the comfort of the public.

(Ord. 99-548.)

(c) *Emission standard.*

(1) “Emission standard” means a requirement that limits the quantity, quality, rate, or concentration of emissions from a source.

(2) “Emission standard” includes any requirement that relates to the operation or maintenance of a source to assure continuous emission reduction.

(Ord. 99-548.)

(d) *Source.*

“Source” means any equipment, process, structure, space, material, or activity that contributes to air pollution.

(Ord. 99-548.)

§ 8-105. Prohibited conduct.

No person may operate or use any source, whether indoors or outdoors, static or mobile, that contributes to air pollution in any way or amount that exceeds emission standards:

(1) set by federal or state law or regulation; or

(2) set by the Commissioner.

(City Code, 1976/83, art. 11, §7.) (Ord. 99-548.)

Subtitle 2. Open Burning**§ 8-201. Definitions.****(b) *Open burning.***

“Open burning” means any fire or smoke-producing process that emits particulates or gases directly into the atmosphere without passing through any air pollution control equipment.
(*City Code, 1976/83, art. 11, §18(a), (f).*) (*Ord. 99-548.*)

(c) *Waste.*

“Waste” has the meaning stated in § 7-101 of this article.
(*Ord. 99-548.*)

§ 8-203. Open burning prohibited.

Except as specified in § 8-204 {“Exceptions”} of this subtitle, no person may permit or carry on any open burning of waste.
(*City Code, 1976/83, art. 11, §19.*) (*Ord. 99-548.*)

§ 8-204. Exceptions.**(a) *Outdoor cooking.***

The use of outdoor grills and fireplaces to prepare food is permitted unless prohibited by the Fire Department.

(b) *Disposal of explosives.*

The open burning of highly explosive or other dangerous materials for which there is no other known method of disposal or under other unusual circumstances is permitted if, on written request, the burning is:

(1) approved by the Commissioner and the Chief of the Fire Department; and

(2) done under the supervision of the Fire Department.

(c) *Training.*

The open burning of solid, liquid, or gaseous fuels, materials, or buildings is permitted if done for training purposes under the direct control and supervision of Fire Department instructors.

(d) *Salamanders, etc.*

Unless prohibited by the Fire Department, the use of salamanders or similar devices by construction or other workers for heat is permitted if:

(1) no smoke violation or other nuisance is created; and

(2) the salamander or other device is of a type approved by the Chief of the Fire Department.

(e) *Emergencies.*

In an emergency declared by the Commissioner, the open burning of household and normal business waste is permitted if it is done in compliance with the conditions and requirements that the Commissioner specifies for the emergency.

(City Code, 1976/83, art. 11, §20.) (Ord. 99-548.)

TITLE 9
NOISE REGULATION

Subtitle 1. Definitions; General Provisions

§ 9-101. Definitions.

(b) *Impulse sound.*

“Impulse sound” means a short burst of acoustical energy such as that produced by weapons fire, a punch press, or a drop hammer. A pressure time history of a single impulse includes a rapid rise to a maximum peak pressure followed by a somewhat slower decay, both occurring within 1 second.

(City Code, 1976/83, art. 11, §230(g)(1).) (Ord. 99-548.)

(c) *Motor vehicle.*

“Motor vehicle” has the meaning stated in § 11-135 of the State Transportation Article {“Maryland Vehicle Law”}.

(City Code, 1976/83, art. 11, §230(c).) (Ord. 99-548.)

(d) *Noise.*

“Noise” means any steady-state or impulse sound that occurs on either a continuous or intermittent basis.

(City Code, 1976/83, art. 11, §230(f).) (Ord. 99-548.)

(e) *Peak pressure.*

“Peak pressure” is the sound level in decibels of an impulse sound measured with sound instrumentation that uses the flat response or linear scale

(City Code, 1976/83, art. 11, §230(e).) (Ord. 99-548.)

(f) *Steady-state sound.*

“Steady-state sound” means a periodic or random variation, with a duration of more than 1 second, in atmospheric pressure at audible frequencies.

(City Code, 1976/83, art. 11, §230(g)(2).) (Ord. 99-548.)

Subtitle 2. Basic Sound Level Standards**§ 9-201. Definitions.****(b) *Decibel or dB.***

- (1) “Decibel” or “dB” means the unit of measurement of relative sound intensity equal to 20 times the logarithm to the base 10 of the ratio of the effective sound pressure to a reference pressure of 20 micronewtons per square meter.

(2) In formula,

$$\text{dB} = 20 \text{ Log}_{10} P/P_0$$

where P is the average pressure of the measured sound, and P_0 indicates the reference pressure considered to be the weakest audible pressure a young ear can detect under ideal listening conditions.

(City Code, 1976/83, art. 11, §230(a).) (Ord. 99-548.)

(d) *Sound Level A or db(A).*

“Sound level A” or “dB(A)” is the sound level in decibels, measured with a sound level meter that uses the A-weighting network or scale, as specified in ANSI S1.4 (“Specification for Sound Level Meters”), as amended from time to time.

(City Code, 1976/83, art. 11, §230(d).) (Ord. 99-548.)

(e) *Use.*

“Use” means any activity, occupation, business, or operation that is conducted on land or in or on a street, building, pier, wharf, or other structure.

(City Code, 1976/83, art. 11, §230(h)(1st sen.).) (Ord. 99-548.)

(f) *Zone, commercial.*

“Zone, commercial” means any of the following zoning districts, as established under the Zoning Code of Baltimore City:

- (1) all business zoning districts; and

- (2) all M-1 industrial zoning districts.

(City Code, 1976/83, art. 11, §230(i)(2).) (Ord. 99-548.)

(g) *Zone, manufacturing.*

“Zone, manufacturing” means all M-2 and M-3 industrial zoning districts, as established under the Zoning Code of Baltimore City.

(City Code, 1976/83, art. 11, §230(i)(1).) (Ord. 99-548.)

(h) *Zone, residential.*

“Zone, residential” means any of the following zoning districts, as established under the Zoning Code of Baltimore City:

(1) all residence zoning districts; and

(2) all office-residence zoning districts.

(*City Code, 1976/83, art. 11, §230(i)(3).*) (*Ord. 99-548.*)

§ 9-205. Prohibited conduct.

(a) *In general.*

(1) No person may cause or permit a sound level that exceeds the applicable level specified in this subtitle.

(2) No person may cause or permit a sound level from the construction, repair, or demolition of a structure or street that exceeds any applicable level set by a rule or regulation of Commissioner, except in accordance with a temporary exemption permit or as necessary to do emergency work.

(3) No person may operate a motor vehicle so as to exceed any applicable sound level set by a rule or regulation of the Commissioner.

(4) No person may use a vehicle horn except:

(i) as reasonably necessary to assure safe operation; or

(ii) as an emergency warning signal.

(b) *Measurements.*

For sound levels set in this subtitle, measurements must be made with instruments calibrated by means of accepted acoustical techniques to an accuracy of plus or minus 1 dB(A).

(*City Code, 1976/83, art. 11, §§235(a), (e), 238(a), (b), (e).*) (*Ord. 99-548.*)

§ 9-206. Limits.

(a) *In general.*

(1) Except as otherwise specified in this subtitle, the maximum permissible sound levels are as set in this section for the applicable zone.

(2) Where the property line of a use coincides with a zone boundary, the level specified in this section for the zone boundary controls.

(3) Where the use is on a public street, the “property line” referred to in this section is the boundary of the public right-of-way.

(b) *Manufacturing zones.*

If the sound is from a use in a manufacturing zone, the maximum permissible sound level is:

- (1) 75 dB(A) at any point on the property line of the use;
- (2) 70 dB(A) at any point on a boundary that separates the manufacturing zone from a commercial zone; and
- (3) 70 dB(A) at any point on a boundary that separates the manufacturing zone from a residential zone.

(c) *Commercial zones.*

If the sound is from a use in a commercial zone, the maximum permissible sound level is:

- (1) 61 dB(A) at any point on the property line of the use;
- (2) 64 dB(A) at any point on a boundary that separates the commercial zone from a manufacturing zone; and
- (3) 58 dB(A) at any point on a boundary that separates the commercial zone from a residential zone.

(d) *Residential zone.*

If the sound is from a use in a residential zone, the maximum permissible sound level is:

- (1) 55 dB(A) at any point on the property line of the use;
- (2) 61 dB(A) at any point on a boundary that separates the residential zone from a manufacturing zone; and
- (3) 58 dB(A) at any point on a boundary that separates the residential zone from a commercial zone.

(City Code, 1976/83, art. 11, §235(b), (c).) (Ord. 99-548.)

§ 9-207. Nighttime sound reductions.

Between the hours of 9 p.m. and 7 a.m., the maximum permissible sound specified in § 9-206 {"Limits"} of this subtitle must be reduced by 5 dB(A) for any use that:

- (1) borders on a residential zone; or

- (2) except for the level permitted by § 9-206(d)(2) of this subtitle, is in a residential zone.

(City Code, 1976/83, art. 11, §236(a).) (Ord. 99-548.)

§ 9-208. Permitted deviations.*(a) Short, durational deviations.*

The maximum permissible sound levels specified in § 9-206 {"Limits"} of this subtitle may be exceeded by no more than:

- (1) 5 dB(A) for a total of not more than 12 minutes in any 1-hour period;
- (2) 10 dB(A) for a total of not more than 3 minutes in any 1-hour period; or
- (3) 15 dB(A) for a total of not more than 30 seconds in any 1-hour period.

(b) Home activities – vehicle repairs; power tools.

Noncommercial vehicular repairs and the use of home workshops, power tools, and power garden equipment are allowed:

- (1) between the hours of 7 a.m. and 9 p.m. on weekdays; and
- (2) between the hours of 10 a.m. and 10 p.m. on weekends and legal holidays.

(c) Home activities – air conditioners; heat pumps.

Air conditioning and heat pump equipment used to cool or heat housing on residential property may exceed the maximum sound levels specified in § 9-206 {"Limits"} of this subtitle as long as the sound level does not exceed:

- (1) for air conditioning equipment, 70 dB(A) at any point on the property line of any other residential property; and
- (2) for heat pump equipment, 75 dB(A) at any point on the property line of any other residential property.

(City Code, 1976/83, art. 11, §236(b), (d).) (Ord. 99-548.)

Subtitle 3. Entertainment and Commercial Noise**§ 9-302. Scope of subtitle.***(a) Commercial, etc., speech.*

This subtitle applies to commercial, religious, political, civic, or free speech activities only:

- (1) where the application is clearly indicated; or
- (2) where religious, fraternal, civic, political, charitable, or civic organizations provide entertainment, as in the case of "fund raisers" or similar activities.

(b) Exemptions from subtitle.

This subtitle does not apply to:

- (1) City-sponsored events in public parks;
- (2) sound equipment used at any professional sports stadium; or
- (3) any public service company, as defined in State Code Article 78.

(City Code, 1976/83, art. 19, §§220(parts), 221(d).) (Ord. 99-548.)

§ 9-306. Prohibited conduct – in general.

Except as authorized under § 9-303 {“Temporary exemptions”} of this subtitle, no person may play, operate, or permit to be played or operated any radio, musical instrument, phonograph, tape- or compact disc-player, or other device for the production or reproduction of sound if:

- (1) that sound is used or intended for entertainment; and
- (2) either:
 - (i) the device is in a building or other structure or in a vehicle, and the sound can be heard more than 50 feet away from the building, structure, or vehicle or, if further, 50 feet from the boundaries of the property surrounding the building or structure;
 - (ii) the device is in or on a public street, building, park, or other public area, in or on a public access area, such as a shopping mall, parking lot, etc., or on any private property and the sound can be heard more than 50 feet from its source; or
 - (iii) the device is being played between 10 p.m. and 8 a.m. in or on a public street, unless the person is participating in a school band or a licensed parade or has otherwise been authorized to play the device.

(City Code, 1976/83, art. 11, §238(d), art. 19, §221(a).) (Ord. 99-548.)

§ 9-307. Prohibited conduct – parents or guardians of minors.

A parent or guardian may not knowingly permit a minor for whom the parent or guardian is responsible to violate § 9-306 {“Prohibited conduct – in general”} of this subtitle.

(City Code, 1976/83, art. 19, §221(c)(3)(i).) (Ord. 99-548.)

§ 9-308. Presumptions.*(a) Devices indoors.*

If the device is located in a building or other structure or in a vehicle, the owner, occupant, resident, manager, operator, or other person in charge of the premises or vehicle, if present, is presumed to be responsible in the absence of evidence to the contrary.

(b) *Devices outdoors.*

If the device is outdoors, the person possessing it is presumed to be responsible in the absence of evidence to the contrary.

(City Code, 1976/83, art. 19, §221(b).) (Ord. 99-548.)

§ 9-312. Loudspeakers, etc.

(a) *In general.*

No commercial enterprise may broadcast over a loudspeaker or other device so that the sound can be heard more than 100 feet from the boundaries of the building or property where the device is located or, if the device is in a vehicle, more than 100 feet from that vehicle.

(b) *Presumption.*

The owner, manager, operator, or other person in charge of the building, premises, or vehicle from which the sound emanates is presumed to be responsible in the absence of evidence to the contrary.

(City Code, 1976/83, art. 19, §222.) (Ord. 99-548.)

§ 9-313. Outcrying.

(a) *Restricted hours.*

Except as specified in subsection (b) of this section, no person may sell anything by outcry between 10 p.m. and 8 a.m.

(b) *Sporting events, etc.*

This section does not apply to the sale of merchandise, food, or beverages at licensed sporting events, parades, fairs, circuses, and similar, licensed entertainment events.

(City Code, 1976/83, art. 11, §238(c).) (Ord. 99-548.)

Subtitle 4. Amplified Sounds in Market Center

§ 9-401. Definitions.

(b) *Commercial speech.*

“Commercial speech” means speech or sound intended to promote any business or other activity carried on for profit.

(City Code, 1976/83, art. 19, §225(d).) (Ord. 99-548.)

(c) *Market Center Urban Renewal Area.*

“Market Center Urban Renewal Area” means the urban renewal area established by the Market Center Urban Renewal Plan.

(Ord. 99-548.)

(d) *Publicly amplified sound.*

“Publicly amplified sound” means any radio, phonograph, tape- or compact disc-player, loudspeaker, or other device that:

(1) electronically produces, reproduces, or amplifies the human voice or other sound; and

(2) is located:

(i) on public property; or

(ii) on private property, but either:

(A) in an unenclosed area; or

(B) if in an enclosed area, within 9 feet of the nearest outside edge of the enclosed area.

(City Code, 1976/83, art. 19, §225(a).) (Ord. 99-548.)

§ 9-403. Scope of subtitle.

(a) *In general.*

With respect to publicly amplified sounds in the Market Center Urban Renewal Area, this subtitle supersedes all other noise regulations of the City Code.

(b) *Public service companies excepted.*

This subtitle does not apply work performed by a public service company, as defined in State Code Article 78.

(City Code, 1976/83, art. 19, §226, 227.) (Ord. 99-548.)

§ 9-406. Commercial speech.

(a) *Prohibited during certain hours.*

In the Market Center Urban Renewal Area, between 11 a.m. and 3 p.m., Monday through Saturday, no person may use any publicly amplified sound that contains commercial speech.

(b) *Permit required for other times.*

At all other times in the Market Center Urban Renewal Area, no person may use any publicly amplified sound that contains commercial speech without a permit to do so from the Commissioner.

(City Code, 1976/83, art. 19, §§228, 229(b)(1st sen.).) (Ord. 99-548.)

§ 9-407. Noncommercial speech.

At all times in the Market Center Urban Renewal Area, no person may use any publicly amplified sound not containing commercial speech without a permit to do so from the Commissioner.

(City Code, 1976/83, art. 19, §229(a)(1st sen.).) (Ord. 99-548.)

§ 9-408. Loud and raucous sounds prohibited.

All loud and raucous sound is prohibited in the Market Center Urban Renewal Area. The receipt of a permit is not a defense to a charge of producing or causing any loud and raucous sound.

(City Code, 1976/83, art. 19, §229(e).) (Ord. 99-548.)

TITLE 10
ANIMAL CONTROL AND PROTECTION

Subtitle 1. Definitions; General Provisions

§ 10-101. Definitions.

(a-1) *Alter.*

“Alter” means to surgically or chemically render an animal incapable of reproducing.
(*Ord. 00-024.*)

(b) *Animal.*

“Animal” means any non-human vertebrate.
(*City Code, 1976/83, art. 11, §24(1).*) (*Ord. 99-548.*)

(c) *Animal clinic.*

“Animal clinic” means any facility that is regularly used by a veterinarian for the immunization, diagnosis, or treatment of or surgery on animals.
(*City Code, 1976/83, art. 11, §24(2), (32).*) (*Ord. 99-548.*)

(d) *Animal shelter.*

“Animal shelter” means any facility that is owned or operated by or under contract with the City or a humane society for the care or detention of animals under authority of State or City law.
(*City Code, 1976/83, art. 11, §24(4).*) (*Ord. 99-548.*)

(e) *Animal show.*

“Animal show” means any commercial circus, variety show, spectacle, display, act, or event in which animals perform.
(*City Code, 1976/83, art. 11, §24(9), (25).*) (*Ord. 99-548.*)

(g) *Commercial establishment.*

“Commercial establishment” means any:

- (1) animal auction;
- (2) animal show;
- (3) commercial kennel;
- (4) grooming shop or similar facility where animals are bathed, clipped, plucked, or otherwise groomed for a fee;
- (5) pet shop;

(6) stable or other riding, boarding, sales, or breeding facility for horses, ponies, donkeys, mules, or burros; or

(7) zoological park.

(City Code, 1976/83, art. 11, §24(10), (16), (30).) (Ord. 99-548.)

(h) *Commercial kennel.*

(1) *In general.*

“Commercial kennel” means, except as specified in paragraph (2) of this subsection, any kennel:

(i) for the commercial breeding of dogs or cats; or

(ii) where dogs or cats are boarded, groomed, sold, or trained for a fee.

(2) *Exclusions.*

“Commercial kennel” does not include any:

(i) animal clinic; or

(ii) kennel maintained by a dog fancier who owns or keeps dogs for the non-commercial purposes of hunting, practice tracking, or exhibition in dog shows or in field or obedience trials.

(City Code, 1976/83, art. 11, §24(11), (14), (15).) (Ord. 99-548.)

(i) *Dangerous animal.*

“Dangerous animal” means any animal that:

(1) has bitten or attacked a human being or another animal without provocation; or

(2) presents a physical threat to human beings or to other animals due to a disposition or propensity to cause injury or to behave in a way that could reasonably be expected to cause injury, regardless of whether its behavior is hostile.

(City Code, 1976/83, art. 11, §24(33).) (Ord. 99-548.)

(j) *Humane society.*

“Humane society” means an entity incorporated under the laws of this State for the prevention of cruelty to animals.

(City Code, 1976/83, art. 11, §24(19).) (Ord. 99-548.)

(k) *Keeper.*

“Keeper” means any person:

(1) who has legal title to, a property interest in, or permanent custody of any animal regulated by this subtitle; or

(2) who, for 3 days or more, has temporary custody of, keeps, possesses, regularly feeds, or exercises control over any animal.

(City Code, 1976/83, art. 11, §24(20), (24).) (Ord. 99-548; Ord. 00-024.)

(l) *Kennel*.

“Kennel” means any premises or part of any premises where 3 or more dogs or cats over 6 months old are boarded or maintained.

(City Code, 1976/83, art. 11, §24(21).) (Ord. 99-548.)

(m) *Pet*.

“Pet” means any animal kept for pleasure rather than utility.

(City Code, 1976/83, art. 11, §24(26).) (Ord. 99-548.)

(n) *Pet shop*.

“Pet shop” means any establishment, whether maintained separately or in connection with another commercial enterprise, that offers live animals for sale with the intent or expectation that they be kept as pets.

(City Code, 1976/83, art. 11, §24(27).) (Ord. 99-548.)

(o) *Private kennel*.

“Private kennel” means any kennel that is not a commercial kennel.

(Ord. 99-548.)

(p) *Veterinarian*.

“Veterinarian” means an individual authorized by law to practice veterinary medicine in the State of Maryland.

(Ord. 99-548.)

(q) *Vicious dog*.

(1) *In general*.

“Vicious dog” means any dog that:

(i) has bitten or attacked a human being or another animal; or

(ii) has attempted to bite or attack a human being or another animal and was prevented from doing so only because it was restrained by a leash, fence, or other means.

(2) *Exclusions — instigation by other.*

“Vicious dog” does not include a dog that has bitten or attacked or has attempted to bite or attack if the injury, damage, or threat was sustained by one who:

- (i) at the time was committing a willful trespass or other tort on the premises occupied by the owner or keeper of the dog;
- (ii) was tormenting, abusing, or assaulting the dog;
- (iii) in the past has been observed or reported to have tormented, abused, or assaulted the dog; or
- (iv) was committing or attempting to commit a crime.

(3) *Exclusions — dog protecting young or in pain.*

“Vicious dog” does not include a dog that has bitten or attacked or attempted to attack or bite if the dog was:

- (i) protecting or defending itself, its young, or another animal; or
- (ii) responding to pain or injury.

(City Code, 1976/83, art. 11, §24(33a).) (Ord. 99-548; Ord. 00-073.)

(r) *Zoological park.*

(1) *In general.*

“Zoological park” means, except as specified in paragraph (2) of this subsection, any facility that displays or exhibits 1 or more species of animals.

(2) *Exclusions.*

“Zoological park” does not include any:

- (i) animal show;
- (ii) kennel; or
- (iii) pet shop.

(City Code, 1976/83, art. 11, §24(35).) (Ord. 99-548.)

Subtitle 2. Licensing

Part I. Dog and Cat Licenses

§ 10-201. License required.

(a) In general.

The keeper of any dog or cat must obtain and annually renew a license for that dog or cat, as provided in this Part I.

(b) When to be obtained.

The license must be obtained within 10 days of the following, whichever is later:

(1) when the dog or cat becomes 4 months old; or

(2) when the dog or cat was acquired by the owner, whether or not the previous owner has a license for the animal.

(City Code, 1976/83, art. 11, §27(a).) (Ord. 99-548; Ord. 00-024.)

§ 10-207. Prohibited conduct.

No person may:

(1) fail to obtain a license as required by this Part I;

(2) permit any or cat dog for which the person is required to obtain a license to be outdoors at any time unless it is wearing a valid identification tag issued under this subtitle;

(3) use any license or identification tag for any dog or cat other than the one for which it was issued;

(4) use any license or identification tag that was issued to a previous keeper of the dog or cat;

(5) remove any identification tag from any dog or cat without the consent of its owner or keeper;

(6) use any microchip required under this subtitle for any dog or cat other than the one to which the microchip applies; or

(7) except as authorized by the Commissioner, remove from any dog or cat any microchip required under this subtitle.

(City Code, 1976/83, art. 11, §27(e), (g), (i), (j).) (Ord. 99-548; Ord. 00-024; Ord. 02-323.)

Part II. Facility Licenses**§ 10-210. License required.***(a) In general.*

No person may operate any of the following facilities without a license to do so from the Commissioner of Health, as provided in this Part II:

- (1) animal clinic;
- (2) animal shelter;
- (3) commercial establishment; or
- (4) private kennel.

(b) Separate permit for each facility.

Every facility subject to this title is considered a separate enterprise and requires a separate permit.

(City Code, 1976/83, art. 11, §28(a), (e), (h).) (Ord. 99-548.)

§ 10-215. Dog and cat records.*(a) Required records.*

Every facility that sells or gives away any dog or cat must keep a record of:

- (1) the name, address, and telephone number of the person to whom the dog or cat was sold or given; and
- (2) the breed, color, sex, and age of the dog or cat.

(b) Retention and inspection.

The facility must:

- (1) retain these records for at least 2 years; and
- (2) make them available for inspection by the Bureau of Animal Control during normal business hours.

(Ord. 00-024.)

§ 10-216. Prohibited conduct.

No person may operate any facility subject to this Part II in violation of:

- (1) any condition imposed on the facility's license; or

(2) any provision of this title or of a rule or regulation adopted under this title.
(*Ord. 99-548; Ord. 00-024.*)

Subtitle 3. General Care and Control

§ 10-301. Rabies – vaccinations.

(a) *Vaccination required.*

No person may own or keep a dog or cat that is older than 4 months unless it has a current rabies vaccination.

(b) *Certificate required.*

(1) Any person who brings a dog or cat over 4 months old into the City must have readily available a current rabies vaccination certificate signed by a veterinarian or issued by an approved government agency.

(2) A dog or cat for which there is no evidence of a current vaccination must immediately be:

(i) vaccinated by a veterinarian; or

(ii) removed from the City.

(c) *Unlicensed dog or cat presumed unvaccinated.*

Any unlicensed dog or cat that is older than 4 months is presumed to be unvaccinated. This presumption can be rebutted only by a current rabies vaccination certificate signed by a veterinarian or issued by an approved government agency.

(d) *Issuance of certificates.*

(1) Any veterinarian who administers a rabies vaccination to an animal must complete a vaccination certificate and give a copy of the certificate to the animal's owner or keeper.

(2) In addition to any other information that the Commissioner requires, the certificate must state:

(i) the date the vaccination was administered; and

(ii) the vaccination's expiration date.

(e) *Commissioner may operate anti-rabies clinics.*

The Commissioner may operate rabies vaccination clinics and charge reasonable fees to defray the cost of the services provided.

(*City Code, 1976/83, art. 11, §§27(k), 35(a) - (c).*) (*Ord. 99-548; Ord. 00-024.*)

§ 10-302. Rabies – possible exposure.*(a) Required reporting.*

A person must immediately, by telephone or in person, report to the Commissioner and the Baltimore City Police Department whenever that person has knowledge of:

- (1) any animal susceptible to rabies that has bitten or scratched any human being or otherwise has exposed any human being to a possible rabies infection; or
- (2) any other animal that is suspected of having rabies.

(b) Isolation and examination of animal.

- (1) The animal must be isolated in the manner and for the period that the Commissioner directs.
- (2) At any time during the isolation, the Commissioner or the owner or keeper of the animal may direct that the animal be humanely killed for the purpose of rabies testing.

(c) Expenses.

The isolation of an animal under this section is at the expense of the animal's owner or keeper.

(d) Release of animal.

An animal isolated under this section may be released only:

- (1) with the consent of the Commissioner; and
- (2) on payment of:
 - (i) the fee set for each day or part of a day that the animal was held; and
 - (ii) all costs incurred during the isolation.

(City Code, 1976/83, art. 11, §35(d), (e).) (Ord. 99-548.)

§ 10-303. Humane care required.

Every owner or keeper of an animal must provide the animal with humane care and treatment, including:

- (1) sufficient and wholesome food and water;
- (2) proper shelter and protection from the weather;
- (3) sufficient exercise space; and
- (4) veterinary care when needed to prevent suffering.

(City Code, 1976/83, art. 11, §32(a).) (Ord. 99-548.)

§ 10-306. Owner to prevent nuisance.

Every owner or keeper of an animal must exercise proper care and control to prevent the animal from becoming a public nuisance.

(City Code, 1976/83, art. 11, §30(b).) (Ord. 99-548.)

§ 10-307. Restraints required.

(a) *In general.*

All animals must be restrained:

- (1) as required by this section; and
- (2) in the case of a dangerous animal, as required by § 10-602 of this title.

(b) *Dogs.*

All dogs must be kept:

- (1) confined in a building or secure enclosure; or
- (2) secured by a leash or otherwise.

(c) *Female dogs or cats in heat.*

Every female dog or cat in heat must be confined in a building or secure enclosure so that it cannot come into contact with a male dog or cat, except for planned breeding.

(City Code, 1976/83, art. 11, §§24(29), 30(a), (c).) (Ord. 99-548.)

§ 10-308. Impounding animals – In general.

(a) *Scope of section.*

This section applies to:

- (1) any dog or cat that is unlicensed, not wearing a valid identification tag while outdoors, or otherwise in violation of § 10-207 {“Prohibited conduct”} of this subtitle; and
- (2) any animal that is not restrained as required by § 10-307 {“Restraints required”} of this subtitle or otherwise by law.

(b) *Seizure of animal.*

- (1) An animal described in subsection (a) of this section may be seized by the Bureau or by any police officer, humane officer, designated employee of the Department, or other person contracting with the City to do so.
- (2) For this purpose, these persons may pursue the animal onto any public or private property.

(c) *Impoundment.*

- (1) An animal seized under this section must be taken to an animal shelter and impounded there in a humane manner.
- (2) If the owner or keeper of the animal can be identified, the animal shelter must immediately notify the owner or keeper by telephone or mail.
- (3) An impounded animal must be kept for at least 5 days, unless sooner reclaimed by its owner or keeper.

(d) *Owner responsible for charges.*

- (1) The owner or keeper of an impounded animal must pay:
 - (i) the fee set for each day the animal has been impounded; and
 - (ii) all other costs incurred in maintaining the animal, including boarding and inoculations.
- (2) The owner or keeper must pay these fees and costs:
 - (i) when reclaiming the animal; or
 - (ii) if the animal is not reclaimed, within 10 days of receiving a bill for them.

(e) *Unclaimed animals.*

Any animal that is not reclaimed within the time specified in subsection (c) of this section:

- (1) becomes the property of the Mayor and City Council of Baltimore; and
- (2) must be:
 - (i) placed for adoption in a suitable home; or
 - (ii) humanely killed.

(City Code, 1976/83, art. 11, § 26(f), 31(a) - (d), 31(e)(1st cl.) .) (Ord. 99-548; Ord. 00-024; Ord. 02-323.)

§ 10-309. Impounding animals – Dogs and cats.(a) *Scope of section.*

This sections applies to any dog or cat that has been impounded under §10-308 of this subtitle or under any other provision of law.

(b) *Assessment of dog.*

- (1) During the impoundment of any dog, the Bureau must assess the dog to determine whether it is a vicious dog.
- (2) If the Bureau reasonably believes that the dog is a vicious dog, the Bureau must:
 - (i) submit a written investigation report to the Vicious Dog Hearing Board; and
 - (ii) retain the dog pending a hearing under Subtitle 7 {"Vicious Dogs"} of this title.

(c) *Conditions for return to owner.*

- (1) On a first or subsequent impoundment of a dog or cat, the Commissioner may require that, as a condition for the animal's return to its owner or keeper:
 - (i) a microchip, containing the information the Commissioner specifies, be surgically implanted in the animal; and
 - (ii) the owner or keeper agree to keep the information current, as directed by the Commissioner.
- (2) On a second or subsequent impoundment, the Commissioner may require that, as a condition of the animal's return to its owner or keeper, the animal be altered.
- (3) The costs incurred in these procedures must be paid by the owner or keeper when reclaiming the animal.

(Ord. 02-323.)

§ 10-312. Vietnamese pot bellied pigs.

No person may keep any Vietnamese pot bellied pig without a permit to do so from the Commissioner of Health.

(City Code, 1976/83, art. 11, §32(h).) (Ord. 99-548.)

§ 10-313. Animal waste.

The owner or keeper of any animal must remove all excretions left by the animal on a public walk, recreation area, or private property.

(City Code, 1976/83, art. 11, §36.) (Ord. 99-548.)

§ 10-314. Injury by vehicle.

If a motor vehicle hits or is hit by an animal, the driver of the motor vehicle must immediately:

- (1) stop the vehicle; and
- (2) if the animal is injured or killed, report the accident to:

(i) the Baltimore City Police Department; and

(ii) the animal's owner or keeper, if the owner or keeper can be determined and located.
(*City Code, 1976/83, art. 11, §33(f), art. 19, §15.*) (*Ord. 99-548.*)

§ 10-315. Misrepresentation to obtain custody.

No person may willfully misrepresent that person's identity or address when seeking to obtain the custody of any dog, cat, or other animal.
(*City Code, 1976/83, art. 11, §37(1st sen.).*) (*Ord. 99-548.*)

Subtitle 4. Animal Protection

§ 10-401. Neglect of animal.

No person may neglect to provide humane care and treatment, as described in §10-303 {"Humane care required"} of this title, for any animal that the person owns, keeps, restrains, or confines, whether as a pet or for any other purpose.
(*City Code, 1976/83, art. 19, §13.*) (*Ord. 99-548.*)

§ 10-402. Abandonment of animal.

No person may desert or abandon any animal that the person owns, keeps, restrains, or confines, whether as a pet or for any other purpose.
(*City Code, 1976/83, art. 11, §32(c), art. 19, §19.*) (*Ord. 99-548.*)

§ 10-403. Abuse of animal.

No person may abuse, beat, torment, mistreat, overload, overwork, or otherwise wilfully cause injury or suffering to any animal.
(*City Code, 1976/83, art. 11, §32(b)(1st cl.), art. 19, §14.*) (*Ord. 99-548.*)

§ 10-406. Animal fights.

(a) *"Animal fight" defined.*

In this section, "animal fight" means any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(b) *Prohibited conduct.*

No person may:

- (1) conduct, cause, or participate in any animal fight;
- (2) permit any animal that the person owns or keeps to participate in an animal fight;

(3) prepare any animal for an animal fight; or

(4) wager on any animal fight.

(City Code, 1976/83, art. 11, §32(b)(2nd cl.), art. 19, §10.) (Ord. 99-548.)

§ 10-407. Animal shows.

(a) *Certain devices prohibited.*

No animal show may be conducted or held if any animal is induced or encouraged to perform through the use of any chemical, mechanical, electrical, or manual device that is likely to cause physical injury or suffering.

(b) *Proper equipment required.*

All equipment used on or by a performing animal must fit properly and be in good working condition.

(City Code, 1976/83, art. 11, §34.) (Ord. 99-548.)

§ 10-408. Exposure to poisons.

No person may use or expose any pesticide or poison, whether mixed with food or not, without taking all necessary precautions to protect non-target animals from exposure to the pesticide or poison.

(City Code, 1976/83, art. 11, §32(g).) (Ord. 99-548.)

§ 10-409. Confinement in cage.

No person may confine any animal in a cage that consists entirely of solid walls.

(City Code, 1976/83, art. 11, §24(8)(2nd sen.).) (Ord. 99-548.)

§ 10-412. Animals as prizes or inducements.

No person may give away or offer to give away any live animal:

(1) as a prize for or as an inducement to enter any contest, game, or other competition;

(2) as an inducement to enter a place of amusement; or

(3) as an incentive to enter into any business agreement.

(City Code, 1976/83, art. 11, §32(e).) (Ord. 99-548.)

§ 10-413. Chicks and ducklings.

(a) *Quantities.*

No person may sell chicks or ducklings younger than 8 weeks in any quantity less than 25.

(b) *Coloring at Easter.*

During the 2-week period immediately before and the 2-week period immediately after Easter Day, no person may:

(1) color, dye, or otherwise impart an artificial color on any living chick or duckling; or

(2) sell or offer for sale, any living chick or duckling that has been colored, dyed, or otherwise treated so as to impart an artificial color.

(City Code, 1976/83, art. 11, §32(d), art. 19, §4.) (Ord. 99-548.)

§ 10-414. Fowl tied by legs.

No person may offer for sale any live fowl that is tied by the legs.

(City Code, 1976/83, art. 19, §11.) (Ord. 99-548.)

§ 10-415. Molesting birds.

No person may:

(1) kill, injure, molest, or attempt to kill, injure, or molest, in any way, any migratory bird or any sparrow, robin, wren, or other insectivorous bird on any of the streets, public squares, or parks in the City; or

(2) destroy, remove, or attempt to destroy or remove, any box placed in any tree or other suitable place in the City for the use of these birds.

(City Code, 1976/83, art. 19, §5.) (Ord. 99-548.)

Subtitle 5. Animals Disturbing the Peace

§ 10-502. Prohibited conduct.

No owner or keeper of any animal may allow the animal to disturb the peace of any person or neighborhood.

(City Code, 1976/83, art. 11, §40(a).) (Ord. 99-548.)

Subtitle 6. Wild and Dangerous Animals

§ 10-601. Attack dogs.

(a) *“Attack dog” defined.*

“Attack dog” means a dog that is trained to attack:

(1) on command; or

(2) to protect persons or property.

(b) *Keeping or training prohibited.*

Except as specified in subsection (c) of this section, no person may keep or train any attack dog in the City.

(c) *Exception.*

This section does not apply to a dog owned by and working for a law enforcement or other governmental agency.

(City Code, 1976/83, art. 11, §§24(6), 40A(a)(1)(ii), (h).) (Ord. 99-548.)

§ 10-602. Dangerous animals.

(a) *Restraints required.*

Every dangerous animal must be:

(1) confined in a building or secure enclosure; and

(2) whenever off the premises of its owner or keeper:

(i) securely caged; or

(ii) muzzled and leashed.

(b) *Keeping for display prohibited.*

(1) Except as specified in paragraph (2) of this subsection, no person may keep or allow to be kept on that person's premises any dangerous animal for display or exhibition purposes, whether a fee is charged or not.

(2) This subsection does not apply to any animal show or zoological park licensed under this title.

(City Code, 1976/83, art. 11, §§24(29), 30(d), 33(a).) (Ord. 99-548.)

§ 10-603. Wild animals.

(a) *Definitions.*

(1) *In general.*

In this section, the following terms have the meanings indicated.

(2) *Dangerous reptile.*

“Dangerous reptile” means any reptile that is:

- (i) poisonous; or
- (ii) more than 5 feet long.

(3) *Wild animal.*

“Wild animal” means any:

- (i) warm-blooded animal that normally is found in the wild;
- (ii) bird; or
- (iii) dangerous reptile.

(b) *Keeping for display prohibited.*

- (1) Except as specified in paragraph (2) of this subsection, no person may keep or allow to be kept on that person’s premises any wild animal for display or exhibition purposes, whether a fee is charged or not.
- (2) This subsection does not apply to any animal show or zoological park licensed under this title.

(c) *Permit required to keep as pet.*

No person may keep any wild animal as a pet without a permit from the Commissioner to do so.

(d) *Keeping reptiles.*

In addition to the other restrictions of this section, no person may:

- (1) keep or allow to be kept in any dwelling any dangerous reptile for any purpose; or
- (2) permit any minor to keep, possess, or handle any dangerous reptile.

(e) *Temporary permit for homeless infant.*

- (1) The Commissioner may issue a temporary permit to keep, care for, and protect an infant wild animal that is native to this area and homeless.
- (2) The Commissioner may order the release of any infant wild animal kept under a temporary permit as soon as the animal is capable of survival in the wild.

(City Code, 1976/83, art. 11, §§24(34), 33, art. 19, §143.) (Ord. 99-548.)

§ 10-606. Importation of wild rabbits and hares.

(a) *Definitions.*

(1) *In general.*

In this section, the following terms have the meanings indicated.

(2) *Wild rabbit or hare.*

“Wild rabbit or hare” means any rabbit or hare that has not been bred and supervised in a properly maintained rabbitry.

(b) *Prohibited conduct.*

Except as specified in subsection (c) of this section, no person may:

(1) bring or import into the City, for sale, any wild rabbit or hare, dead or alive; or

(2) sell or offer for sale in the City any imported wild rabbit or hare, dead or alive.

(c) *Exceptions.*

This section does not apply to the importation of wild rabbits or hares by the following, if done in conformity with the rules and regulations of the Commissioner:

(1) zoological park licensed under this title; or

(2) a laboratory in which scientific research is carried out.

(City Code, 1976/83, art. 19, §§127, 128.) (Ord. 99-548.)

Subtitle 7. Vicious Dogs**§ 10-702. Keeping vicious dog prohibited.****(a) *In general.***

Except as specified in subsection (b) of this section, no person may keep any vicious dog in the City.

(b) *Exception.*

This subtitle does not apply to a dog owned by and working for a law enforcement or other governmental agency.

(City Code, 1976/83, art. 11, §40A(a)(1)(i), (h).) (Ord. 99-548.)

Subtitle 9. Horse Riding and Driving**§ 10-901. Definitions.****(b) *Custodian.*****(1) *In general.***

“Custodian” means:

- (i) the owner or renter of a horse;
- (ii) the stable operator; or
- (iii) any individual who has the immediate possession, custody, use, or control of a horse.

(2) *Exclusions.*

“Custodian” does not include an individual who is passively sitting on a horse while it is being slowly walked on a lead by an owner, renter, or stable operator.

(City Code, 1976/83, art. 19, §32(a)(3).) (Ord. 99-548.)

(c) *Driving.*

“Driving” means the process of using a horse:

- (1) for riding; or
- (2) for pulling a wagon, cart, carriage, or other vehicle or device.

(City Code, 1976/83, art. 19, §32(a)(5).) (Ord. 99-548.)

(d) *Driving license.*

“Driving license” means a license issued by the Commissioner to use a horse:

(1) for riding; or

(2) for pulling a wagon, cart, carriage, or other vehicle or device.

(City Code, 1976/83, art. 19, §32(a)(4).) (Ord. 99-548.)

(e) *Horse.*

“Horse” means a horse, pony, donkey, mule, or similar animal that is:

(1) owned, driven, used, or quartered in the City, whether permanently or temporarily; and

(2) used for:

(i) riding, driving, or breeding;

(ii) showing or performing in any exhibition or animal show; or

(iii) any work or labor.

(City Code, 1976/83, art. 19, §32(a)(7)(parts).) (Ord. 99-548.)

(f) *Humane officer.*

“Humane officer” means an agent of a humane society who has been registered and approved by the Commissioner to perform the duties specified in this subtitle.

(City Code, 1976/83, art. 19, §32(a)(8).) (Ord. 99-548.)

(g) *Renter.*

“Renter” means a person who rents a horse for riding or driving purposes.

(City Code, 1976/83, art. 19, §32(a)(13).) (Ord. 99-548.)

(h) *Stable.*

“Stable” means any permanent or temporary location within the City at which horses are:

(1) boarded;

(2) rented for riding, driving, or other purposes;

(3) bred; or

(4) sold.

(City Code, 1976/83, art. 19, §32(a)(6).) (Ord. 99-548.)

(i) *Stable operator.*

“Stable operator” means the person who owns or is in charge of a stable.
(*City Code, 1976/83, art. 19, §32(a)(10).*) (*Ord. 99-548.*)

§ 10-905. License required.

(a) *In general.*

Except as otherwise specified in this section, no one may drive a horse unless:

- (1) he or she is an adult;
- (2) has been issued a driving license by the Commissioner of Health; and
- (3) has that license with him or her while driving the horse.

(b) *Exceptions.*

This section does not apply to the rider of a horse that is being held or led, during the entire period of rental or use, by a custodian with a valid driving license.

(c) *Waivers.*

The Commissioner may waive the requirements of this section for individuals participating in animal shows, organized competitions, special events involving the transportation of people in carriages or sleighs, and similar events.
(*City Code, 1976/83, art. 19, §32(m)(1), (6).*) (*Ord. 99-548.*)

§ 10-912. Examination by veterinarian.

(a) *Annual examination required.*

The owner of every horse must have the horse examined by a veterinarian at least once a year.

(b) *Scope of examination.*

The examination must cover:

- (1) the general condition of the horse and its teeth, hoofs, and shoes; and
- (2) the horse’s stamina and physical ability to carry the loads and perform the work for which it is intended.

(c) *Veterinarian’s record.*

(1) The veterinarian must make a record of:

- (i) any injury, disease, or deficiency detected; and

- (ii) any prescription or recommendation for curing or correcting that condition or for any other disposition of the horse.

(2) The veterinarian must provide a copy of that record to the horse's owner.

(d) *Owner to retain records.*

The owner must:

(1) keep a copy of the record for at least 3 years; and

(2) make it available for inspection by a police officer, a humane officer, or the Commissioner during normal business hours.

(City Code, 1976/83, art. 19, §32(b).) (Ord. 99-548.)

§ 10-913. General limitations on use.

Whenever a horse is being used for any purpose on the streets of the City, the owner or custodian of the horse:

(1) must treat the horse in a humane manner, never beat or prod it in any way that will cause pain or injury to the horse, and never intentionally, knowingly, or obviously be cruel to the horse;

(2) may not use, work, drive, ride, or require labor from the horse for more than 10 hours in any 24-hour period, with adequate rest periods during those 10 hours;

(3) at reasonable intervals, must permit the horse to have food and drinking water from a clean container that is of sufficient size and in good condition;

(4) during times of cold or inclement weather, must drape the body of the horse, from forelegs to hind legs, with a warm covering that is in good condition;

(5) must attend the horse at all times, as follows:

(i) if the horse is only being used for riding purposes, it must be securely tied to an immovable object or held, led, or mounted by an individual who is physically able to maintain full control of the horse; and

(ii) if the horse is being used for any other driving purpose, it must be within 75 feet of its custodian and within the custodian's sight;

(6) may not overdrive or overload the horse, as evidenced by physical stress, strain, or exhaustion of the horse; and

(7) must obey any order issued by the Commissioner that relates to the care and treatment of the horse.

(City Code, 1976/83, art. 19, §32(a)(1), (f), (g)(4).) (Ord. 99-548.)

§ 10-914. Limitations on driving.

Whenever a horse is being used for driving purposes on the streets of the City, the owner or custodian of the horse:

- (1) must assure that any wagon, cart, carriage, vehicle, or similar device being used is in good condition, that its axles are well-greased, and that its operating mechanisms are in good working order;
- (2) during warm weather, must park the horse in the shade when practicable;
- (3) if the wagon, cart, carriage, vehicle, or similar device is equipped with brakes, must put the brakes into a locked position at all times when not moving; and
- (4) may not cause or permit the horse to gallop.

(City Code, 1976/83, art. 19, §32(g)(1) - (3), (5)). (Ord. 99-548.)

§ 10-915. Limitations based on weather conditions.

(a) *In general.*

No owner or custodian of a horse may permit its use or work on the public streets whenever:

- (1) the temperature exceeds 92° F. or falls below 20° F., as announced by the local telephone service;
- (2) an official “snow emergency” is in effect; or
- (3) because of adverse weather conditions, the Director of Public Works or the Commissioner of Health issues a determination, by radio or other means, that it would be dangerous or unsuitable for a horse to be on the streets.

(b) *Return to stable.*

If a horse is already in use when a condition described in subsection (a) of this section begins, the owner or custodian must immediately return the horse, by the most direct route, to the stable from which it was obtained.

(City Code, 1976/83, art. 19, §32(h).) (Ord. 99-548.)

§ 10-916. Equipment.

The owner or custodian of every horse:

- (1) must assure that the saddle, harness, shoes, bridle, and all other equipment required or in use:
 - (i) are in good working order;
 - (ii) fit properly; and

- (iii) will not cause physical pain or injury to the horse;
 - (2) may not use curb bits, twisted wire, twisted wire snaffles, spurs, bucking straps, flank straps, or similar devices; and
 - (3) must inspect the horse and all its equipment and other attachments:
 - (i) whenever it departs from the stable;
 - (ii) whenever it returns to the stable; and
 - (iii) if not being used, at least once daily.
- (City Code, 1976/83, art. 19, §32(i).) (Ord. 99-548.)*

§ 10-917. Quarters.

(a) Proper quarters required.

Every stable operator must assure that every horse is quartered in a lighted, clean, dry, and properly ventilated stable or barn and that all other requirements of this section are met.

(b) Stalls.

Every horse's stall must be:

- (1) large enough to permit the horse to turn around easily;
- (2) cleaned daily; and
- (3) supplied with adequate bedding of straw, shavings, or other suitable hygienic material, which must be changed as often as necessary to maintain a clean and dry condition.

(c) Blankets.

Blankets must be available and used as necessary during cold winter periods.

(d) Identification.

For emergency purposes, the exterior of the stable or barn entrance must conspicuously display, in at least 2-inch lettering, the stable operator's full name, business address, and business and home telephone numbers.

(City Code, 1976/83, art. 19, §32(j).) (Ord. 99-548.)

§ 10-918. Sick or injured horses.

(a) Treatment required; unnecessary moving prohibited.

If a horse is sick, diseased, lame, injured, or in pain:

- (1) the owner or custodian of the horse must take action to obtain immediate veterinary treatment, care, and attention; and
- (2) the horse may not be moved or driven, except:
 - (i) to obtain required veterinary treatment, care, and attention; or
 - (ii) to obtain immediate humane keeping or pasture.

(b) *Use during recovery period.*

During the recovery or convalescent period, the horse may not be used or worked unless the custodian has a signed, dated certificate from the treating veterinarian stating that the horse's condition will not be impaired or aggravated by the activity.

(c) *Disposal.*

A sick, diseased, lame, or injured horse may not be disposed of except in a humane manner. (*City Code, 1976/83, art. 19, §32(k).*) (*Ord. 99-548.*)

§ 10-921. Identification cards.

(a) *Possession on streets required.*

Whenever any horse is on a street, the custodian must have available, for immediate inspection by a police officer, a humane officer, or the Commissioner of Health, the identification card required by this section.

(b) *Form and contents.*

The identification card must:

- (1) be on the form that the Commissioner provides;
- (2) be signed and dated by a veterinarian within the preceding 12 months;
- (3) describe the horse, including its sex, age, height, color, markings, and any other identifying information;
- (4) describe the stamina and physical condition of the horse;
- (5) describe any conditions that might restrict or affect the use, movement, or driving of the horse; and
- (6) contain the name, address, and telephone number of:
 - (i) the stable where the horse is quartered; and
 - (ii) the owner of the horse.

(c) *Owner to provide card to custodian.*

Whenever the owner of a horse rents or otherwise places it in the care or custody of any person, the owner must provide that person with the identification card required by this section.
(City Code, 1976/83, art. 19, §32(c).) (Ord. 99-548.)

§ 10-922. Driving under the influence.

No one may ride, lead, control, drive, work, exhibit, handle, care for, maintain, or supervise any horse while:

(1) intoxicated;

(2) under the influence of any intoxicating beverage or substance; or

(3) under the influence of any drugs.

(City Code, 1976/83, art. 19, §32(d).) (Ord. 99-548.)

§ 10-923. Registry of rentals.

(a) *Scope.*

This section does not apply to the transportation of people in a carriage or sleigh that is driven by a licensed driver.

(b) *Registry required; contents.*

The operator of any stable that rents horses must maintain a written registry that contains:

(1) the full name and address of every person who rents a horse;

(2) the identity of the horse; and

(3) the exact period during which the horse was rented.

(c) *Maintenance and inspection.*

The registry record must be:

(1) kept for at least 3 years after the renting; and

(2) available for inspection by a police officer, a humane officer, or the Commissioner of Health during normal business hours.

(City Code, 1976/83, art. 19, §32(e).) (Ord. 99-548.)

§ 10-924. Display of vehicle license.

The owner or operator of any horse drawn vehicle must assure that the City license issued for the vehicle is kept clean, securely fastened, and prominently displayed on the vehicle.
(City Code, 1976/83, art. 19, §32(l).) (Ord. 99-548.)

TITLE 11
SWIMMING POOLS

Subtitle 1. Definitions

§ 11-101. Definitions.

(b) *Swimming pool.*

(1) *In general.*

“Swimming pool” means any pool, hot tub, spa, or other body of water that is used for swimming, diving, wading, therapeutic, or recreational bathing.

(2) *Inclusions.*

“Swimming pool” includes any body of water described in paragraph (1) of this subsection, whether:

(i) in-ground, above-ground, or on-ground; or

(ii) indoor or outdoor.

(City Code, 1976/83, art. 11, §245(f), art. 19, §184(a)(1st cl.).) (Ord. 99-548.)

Subtitle 3. Public Swimming Pools

§ 11-301. Definitions.

(c) *Public swimming pool.*

(1) *In general.*

“Public swimming pool” means:

(i) any swimming pool, other than as specified in paragraph (3) of this subsection, intended to be used collectively by individuals, regardless of whether a fee is charged for that use; and

(ii) all buildings and appurtenances used in connection with that swimming pool.

(2) *Inclusions.*

“Public swimming pool” includes:

(i) any community or apartment-complex swimming pool;

(ii) any hotel or motel swimming pool;

- (iii) any school swimming pool;
- (iv) any recreational center swimming pool; and
- (v) any swimming pool owned or operated by a public or private club.

(3) *Exclusions.*

“Public swimming pool” does not include any swimming pool that is:

- (i) located on private property;
- (ii) under the control of the owner or lessee of that property; and
- (iii) used only by the family and guests of that owner or lessee, without payment of any fee.

(City Code, 1976/83, art. 11, §245(d), (e), (f)(last cl.)) (Ord. 99-548.)

§ 11-302. Scope of subtitle.

This subtitle applies to all public swimming pools and to the buildings and appurtenances used in connection with them.

(City Code, 1976/83, art. 11, §244(b.)) (Ord. 99-548.)

§ 11-306. License required.

No person may operate any public swimming pool in the City without a license to do so from the Commissioner of Health.

(City Code, 1976/83, art. 11, §247(a.)) (Ord. 99-548.)

TITLE 12
TOBACCO PRODUCTS

Subtitle 1. Smoking in City Buildings and Vehicles

§ 12-101. Definitions.

(b) *City building.*

“City building” means any building or part of a building that is:

(1) owned or leased by the City; or

(2) occupied by a City agency.

(*City Code, 1976/83, art. 11, §273(b).*) (*Ord. 99-548.*)

(c) *City market.*

“City market” means any of the following:

(1) Belair Market;

(2) Broadway Market;

(3) Cross Street Market;

(4) Hollins Market;

(5) Lafayette Market;

(6) Lexington Market;

(7) Northeast Market; and

(8) any future similar market.

(*City Code, 1976/83, art. 11, §273(c).*) (*Ord. 99-548.*)

(d) *Occupy.*

“Occupy” means to have control over a physical space by reason of a lease, whether written or oral.

(*City Code, 1976/83, art. 11, §273(d).*) (*Ord. 99-548.*)

(e) *Smoke.*

“Smoke” means to smoke or carry a burning cigar, cigarette, pipe, or tobacco product of any kind.

(*City Code, 1976/83, art. 11, §273(e).*) (*Ord. 99-548.*)

§ 12-102. Exemptions.

Except for City markets, this subtitle does not apply to any part of a City building that:

(1) is occupied by a private individual or business; and

(2) has a ventilation system or physical barrier that prevents air from the areas in which smoking is permitted from passing into nonsmoking areas.

(City Code, 1976/83, art. 11, §274.) (Ord. 99-548.)

§ 12-103. Prohibited conduct.

(a) *Buildings and markets.*

Except as specified in §12-102 {"Exemptions"} of this subtitle, smoking in any City building or City market is prohibited.

(b) *City vehicles.*

Smoking in any vehicle owned or leased by the City is prohibited whenever more than 1 individual is in that vehicle.

(City Code, 1976/83, art. 11, §275.) (Ord. 99-548.)

Subtitle 2. Sale of Unpackaged Cigarettes**§ 12-201. Definitions.**

(b) *Unpackaged cigarette.*

"Unpackaged cigarette" means any cigarette not contained in a sealed package of 20 or more cigarettes that are designed and intended to be sold or distributed as a unit.

(City Code, 1976/83, art. 19, §8A(a)(3).) (Ord. 99-548; Ord. 01-072.)

§ 12-202. Sale of unpackaged cigarettes prohibited.

No person may sell or otherwise transfer for consideration unpackaged cigarettes to any other person.

(City Code, 1976/83, art. 19, §8A(a)(2), (b).) (Ord. 99-548.)

Subtitle 4. Placement of Tobacco Products**§ 12-401. Definitions.****(b) *Tobacco product.*****(1) *In general.***

“Tobacco product” means any substance that contains tobacco.

(2) *Inclusions.*

“Tobacco product” includes any:

(i) cigarette;

(ii) cigar;

(iii) bidi;

(iv) pipe or other smoking tobacco; or

(v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.

(Ord. 01-076.)

§ 12-402. Placement requirements – in general.**(a) *Prohibited placement.***

Except as otherwise specified in this subtitle, no establishment that sells tobacco products at retail may display, store, or place any tobacco product anywhere that is accessible to customers without the intervention of the seller or an employee of the seller.

(b) *Examples of complying placement.*

The display, storage, or placement of tobacco products in accord with one of the following methods does not violate subsection (a) of this section:

(1) behind a sales counter in a place that, absent extraordinary efforts, is beyond the physical reach of customers;

(2) in a locked display case for which seller assistance is needed to gain access to products in the case; or

(3) in an overhead merchandise rack that:

(i) at its lowest point, is at least 6 feet above the floor; and

- (ii) permits access to products in the rack only from the side facing away from customers.

(Ord. 01-076.)

§ 12-403. Placement requirements – exceptions.

This subtitle does not apply to:

- (1) the sale of tobacco products from a vending machine that complies with all requirements of State Business Regulation Article, Title 16, Subtitle 3A; or
- (2) an establishment that:

- (i) sells tobacco products exclusively or primarily; and

- (ii) makes bona fide efforts to prevent minors from entering the establishment.

(Ord. 01-076.)

Subtitle 5. Distribution to Minors

§ 12-501. Definitions.

(b) *Distribute.*

“Distribute” means to:

- (i) give away, sell, deliver, dispense, or issue;
- (ii) offer to give away, sell, deliver, dispense, or issue; or
- (iii) cause or hire any person to:
 - (i) give away, sell, deliver, dispense, or issue; or
 - (ii) offer to give away, sell, deliver, dispense, or issue.

(c) *Tobacco product.*

(1) *In general.*

“Tobacco product” means any substance that contains tobacco.

(2) *Inclusions.*

“Tobacco product” includes any:

- (i) cigarette;
- (ii) cigar;
- (iii) bidi;
- (iv) pipe or other smoking tobacco; or
- (v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.

(Ord. 02-322.)

§ 12-502. Unlawful distribution.

(a) *Persons in business.*

A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes may not:

- (1) distribute any tobacco product to a minor, unless the minor is acting solely as the agent of an employer engaged in the business of distributing tobacco products;
- (2) distribute any cigarette rolling paper to a minor; or
- (3) distribute to a minor any coupon redeemable for any tobacco product.

(b) *Others.*

A person not described in subsection (a) of this section may not:

- (1) buy for or sell to a minor any tobacco product; or
- (2) buy for or sell or deliver to a minor any cigarette rolling paper.

(Ord. 02-322.)

§ 12-503. Exceptions.

(a) *Published coupon.*

This subtitle does not apply to the distribution of a coupon that is:

- (1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or
- (2) sent through the mail.

(b) *Identification as adult.*

A person has not violated this subtitle if:

- (1) the person examined a buyer's or recipient's driver's license or other identification issued by an employer, governmental entity, or institution of higher education; and
- (2) the license or other identification identified the buyer or recipient as being at least 18 years old.

(Ord. 02-322.)

TITLE 15
EPHEDRINE PRODUCTS

Subtitle 1. Definitions

§ 15-101. Definitions.

(a) *In general.*

In this title, the following terms have the meanings indicated.

(b) *Distribute.*

“Distribute” means to:

- (1) give away, sell, deliver, dispense, or issue;
- (2) offer to give away, sell, deliver, dispense, or issue; or
- (3) cause or hire any person to:
 - (i) give away, sell, deliver, dispense, or issue; or
 - (ii) offer to give away, sell, deliver, dispense, or issue.

(c) *Ephedrine product.*

“Ephedrine product” means any dietary supplement product designed or intended for human consumption that contains any natural or synthetic ephedrine.

(Ord. 03-621.)

Subtitle 2. Distribution to Minors

§ 15-201. Unlawful distribution – Businesses.

A person engaged in the business of selling or otherwise distributing ephedrine products for commercial purposes may not:

- (1) distribute any ephedrine product to a minor, unless the minor is acting solely as the agent of an employer engaged in the business of distributing ephedrine products; or
- (2) distribute to a minor any coupon redeemable for any ephedrine product.

(Ord. 03-621.)

§ 15-202. Unlawful distribution – Others.*(a) In general.*

A person not described in § 15-201 of this subtitle may not buy for or sell or deliver to a minor:

- (1) any ephedrine product; or
- (2) any coupon redeemable for any ephedrine product.

(b) Parent or guardian at physician's direction.

This section does not apply to a parent or guardian of a minor who provides the product to the minor in accordance with written instructions of the minor's physician.

(Ord. 03-621.)

§ 15-203. Exceptions – Identification as adult.

A person has not violated this subtitle if:

- (1) the person examined a buyer's or recipient's driver's license or other identification issued by an employer, governmental entity, or institution of higher education; and
- (2) the license or other identification identified the buyer or recipient as being at least 18 years old.

(Ord. 03-621.)

§ 15-204. Exceptions – Published coupon.

This subtitle does not apply to the distribution of a coupon that is:

- (1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or
- (2) sent through the mail.

(Ord. 03-621.)

Subtitle 3. Product Placement**§ 15-301. General requirements.**

Except as otherwise specified in this subtitle, no establishment that sells ephedrine products at retail may display, store, or place any ephedrine product anywhere that is accessible to customers without the intervention of the seller or an employee of the seller.

(Ord. 03-621.)

§ 15-302. Examples of complying placement.

The display, storage, or placement of ephedrine products in accord with one of the following methods does not violate § 15-301 of this subtitle:

- (1) behind a sales counter in a place that, absent extraordinary efforts, is beyond the physical reach of customers;
- (2) in a locked display case for which seller assistance is needed to gain access to products in the case; or
- (3) in an overhead merchandise rack that:
 - (i) at its lowest point, is at least 6 feet above the floor; and
 - (ii) permits access to products in the rack only from the side facing away from customers.

(Ord. 03-621.)

ZONING CODE***TITLE 2******ADMINISTRATION; AUTHORIZATIONS******Subtitle 4. Use Permits*****§ 2-402. Use permit required.**

A use permit is required before any person may:

- (1) occupy any newly-constructed structure or any addition to a previously-constructed structure;
 - (2) use for any purpose any previously-vacant land; or
 - (3) make any change in the authorized use of any land or structure.
- (City Code, 1976/83, art. 30, §11.0-2d1(1st, 2nd sens.)) (Ord. 99-547.)*

TITLE 3
GENERAL RULES FOR USE, BULK, AND OTHER REGULATIONS

Subtitle 1. Use Regulations

§ 3-107. Prohibited uses – storage, etc., of vehicles.

(a) *Definitions.*

(1) *In general.*

In this section, the following terms have the meanings indicated.

(2) *Derelict vehicle.*

“Derelict vehicle” means a vehicle that exhibits a defect, damage, or deterioration sufficient to preclude proper operation on the highway.

(3) *Unlicensed vehicle.*

“Unlicensed vehicle” means:

- (i) an unregistered vehicle; or
- (ii) a vehicle on which current registration tags are not displayed.

(b) *Prohibited uses.*

(1) *Indoor or outdoor storage, etc.*

The indoor or outdoor storage or maintenance of abandoned, junked, or derelict vehicles is prohibited in all:

- (i) Business Districts;
- (ii) M-1 and M-2 Districts; and
- (iii) Public Use Districts.

(2) *Outdoor storage, etc.*

The outdoor storage or maintenance of abandoned, unlicensed, junked, or derelict vehicles is prohibited in all:

- (i) Residence Districts;
- (ii) Office-Residence Districts; and
- (iii) Flood Plain Overlay Districts.

(3) *Outdoor facilities for storage, etc.*

Outdoor facilities for the storage, maintenance, or dismantling of abandoned, unlicensed, junked, or derelict vehicles are prohibited within the Buffer of the Critical Area Overlay District.

(City Code, 1976/83, art. 30, §3A.0-1d(2nd sen.), §3B.0-1d(2nd sen.), §3C.0-1d3, §4.0-1d(2nd sen.), §5.0-1d(2nd sen.), §6.0-1d(2nd sen.), §7.0-1f(2nd sen.), §13.0-2-23½, §13.0-2-93a.) (Ord. 99-547.)

PART 3

BOARD RULES AND REGULATIONS

ARTICLE 1
GENERAL RULES

§ 1-01. Definitions.

(a) *In general.*

In these rules and regulations, the following terms shall have the meanings indicated.

(b) *Administrative judge.*

“Administrative judge” means an individual designated by the Director to conduct hearings or proceedings.

(c) *Board.*

“Board” means the Environmental Control Board of Baltimore City.

(d) *Charging agency.*

“Charging agency” means the department, bureau, agency, or other unit of City government that issues a citation.

(e) *Citation.*

“Citation” means a prepayable citation issued for violation of a law or regulation under the jurisdiction of the Board.

(f) *Director.*

“Director” means the Executive Director of the Board or the Director’s designee.

(g) *Party.*

“Party” means a charging agency or a respondent.

(h) *Person.*

“Person” means:

- (1) an individual;
- (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (3) a partnership, firm, association, corporation, governmental agency, or other entity of any kind.

(i) *Respondent.*

“Respondent” means the person to whom a citation is issued.

§ 1-02. Scope of Rules.

These rules and regulations govern all proceedings under:

- (1) Article 1, Subtitle 40, of the Baltimore City Code; or
- (2) any other relevant provisions of the City Code.

§ 1-03. Filings with Director.

All documents permitted or required to be filed with the Board shall be filed at the office of the Director.

§ 1-04. Form and Service of Documents.

(a) *Captions.*

Each document filed with the Board shall contain a caption that sets forth:

- (1) the title of the action;
- (2) the citation number or the docket number assigned to the proceeding; and
- (3) a brief descriptive title of the document that indicates its nature.

(b) *Signature – By attorney.*

- (1) Every document of a party represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State.
- (2) The signature of an attorney constitutes a certification that:
 - (i) the attorney has read the document;
 - (ii) to the best of his or her knowledge, information and belief, there is good ground to support it; and
 - (iii) it is not interposed for delay.

(c) *Signature – By party.*

Every document of a party who is not represented by an attorney shall be signed by the party.

(d) *Signature – Sanctions.*

If a document is not signed as required (except inadvertent omission to sign, if promptly corrected) or is signed with intent to defeat the purpose of this rule, it may be stricken, and the action may proceed as though the document had not been filed.

(e) *Service.*

- (1) This subsection applies to all documents, except for citations, that are required to be served on other parties.
- (2) If service is required on a party represented by an attorney, service shall be made on the attorney unless service on the party is ordered by the Board.
- (3) Each document shall be accompanied by a signed certificate of service that specifies the date and manner of service.

§ 1-05. Computation of Time.

(a) *Computation of time after an act, event, or default.*

- (1) In computing any period of time prescribed by these rules and regulations, the day of the act, event, or default after which the designated period of time begins to run is not included.
- (2) If the period of time allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays are counted.
- (3) If the period of time allowed is 7 days or less, intermediate Saturdays, Sundays, and legal holidays are not counted.
- (4) The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) *Computation of time before a day, act, or event.*

- (1) In determining the latest day for performing an act that is required by these rules and regulations to be performed a prescribed number of days before a certain day, act, or event, all days preceding that day, including intervening Saturdays, Sundays, and legal holidays, are counted in the number of days so prescribed.
- (2) The latest day is included in the determination unless it is a Saturday, Sunday, or legal holiday, in which event the latest day is the first preceding day that is not a Saturday, Sunday, or legal holiday.

(c) *Mailing.*

When mail is used for service of any document (other than a citation) on an opposing party, the opposing party has 3 additional days within which to take any action or make any response required or permitted by these rules and regulations.

§ 1-06. Appearances.

(a) *In general.*

Persons are permitted to participate in proceedings before the Board as provided in this section.

(b) *Individuals.*

An individual may appear:

- (1) in his or her own behalf; or
- (2) by an attorney licensed to practice in the State of Maryland.

(c) *Businesses, etc.*

A business, non-profit organization, or government agency may appear:

- (1) by an attorney licensed to practice in the State of Maryland; or
- (2) to the extent allowed by law, by any officer, employee, or authorized agent.

§ 1-07. Records.

(a) *Director to keep.*

The Director shall maintain files containing all documents, evidence, and other items and information submitted to or produced by an administrative judge or the Board during the course of a proceeding.

(b) *Files to be public.*

These files shall be available for public inspection in accordance with the Maryland Public Information Act.

ARTICLE 2
PRE-HEARING PROCEDURES

§ 2-01. Citation.

(a) *Proceedings commenced by citation.*

All proceedings shall be commenced by the issuance of a citation on a form approved by the Board.

(b) *Contents.*

The citation shall contain:

- (1) the name of the respondent;
- (2) the violation with which the person is cited, including a reference to the specific law in question;
- (3) the date and address of the violation;
- (4) the amount of the prepayable fine;
- (5) information on whether the offense is a repeat offense;
- (6) the manner and time in which the respondent must either:
 - (i) pay the prepayable fine; or
 - (ii) request a hearing on the violation;
- (7) the time within which the violation, if ongoing, must be abated; and
- (8) a notice that failure to act in the manner and time indicated in the citation may result in a default decision and an order entered against the respondent.

(c) *Service.*

A citation may be served on a respondent as provided in Article 1, § 40-7(c) of the Baltimore City Code.

(d) *Filing.*

A copy of the served citation:

- (1) shall be filed with the Board; and
- (2) may be filed with other departments, bureaus, agencies, or other units of the City.

§ 2-02. Admissions and Payments.*(a) In general.*

A respondent may admit to the violation charged and pay the prepayable fine indicated on the citation in the manner and time directed by the citation.

(b) Effect of payment.

Payment in full is deemed an admission of liability and no further hearing or appeal will be allowed.

§ 2-03. Pre-Hearing Requests to Reschedule.*(a) Director may grant.*

On written application to the Director and for good cause shown, the Director may postpone a scheduled hearing for a brief period or reschedule the hearing.

(b) Subsequent requests.

The Director may deny any further requests for rescheduling and require that the respondent appear at the scheduled hearing and present his or her request for rescheduling to the administrative judge.

§ 2-04. Consolidation.

In the interest of convenient, expeditious, and complete determination of cases involving the same or similar issues or the same parties, the administrative judge may consolidate two or more citations for adjudication at one hearing.

§ 2-05. Discovery.*(a) In general.*

(1) On timely, written request, any party is entitled to receive from the opposing party:

- (i) a list of the names of witnesses intended to be called; and
- (ii) copies of documents intended to be submitted into evidence.

(2) To be timely, the request must be received by the opposing party at least 10 days before the scheduled hearing.

(3) The party to whom the request is directed shall serve a written response within 7 days after the request is received.

(b) *Limitations.*

- (1) Pre-hearing discovery is limited to the matters enumerated in subsection (a) of this section.
- (2) All other applications or motions for discovery, including depositions on oral examination, shall be made to the administrative judge at the start of the hearing, and the administrative judge may order further discovery as it finds appropriate.

(c) *Supplementation.*

If a party has responded to a request for discovery and, before the hearing, obtains further material information, the party shall supplement the response promptly.

(d) *Sanctions.*

If any party fails to properly respond to a lawful discovery request or order or wrongfully refuses to answer questions or produce documents, the administrative judge may take appropriate action, including, but not limited to, precluding evidence or witnesses of the offending party or striking the pleadings or defenses of that party.

ARTICLE 3
HEARING PROCEDURES

§ 3-01. Scheduling; Notice.

(a) *In general.*

If a respondent timely requests a hearing, the Director shall:

- (1) set the date, time, and place for the hearing before an administrative judge; and
- (2) provide the parties with at least 20 days' notice of the hearing.

(b) *Contents of notice.*

The notice shall state:

- (1) the date, time, place, and nature of the hearing;
- (2) the right of a party to be represented, at the party's own expense, by an attorney or, if permitted by law, other representative;
- (3) the right of a party to seek discovery under § 2-05;
- (4) the right of a party to call witnesses and submit documents or other evidence under § 3-13 of this article; and
- (5) that failure to appear for the scheduled hearing may result in an adverse action against the party.

§ 3-02. Timing of Hearing.

(a) *In general.*

Absent a showing of good cause, the hearing date shall be within 180 days of the citation's service.

(b) *Accelerated hearing.*

If the respondent waives the 20 days' notice and requests an accelerated hearing, the Director may assign the case for immediate hearing, on appropriate notice to the charging agency and opportunity for the charging agency to appear.

§ 3-03. General Nature of Hearing.

(a) *Orderly but informal*

All hearings shall be conducted in an orderly but informal manner.

(b) *Expedition.*

- (1) Hearings shall proceed with all reasonable expedition and, to the extent practicable, shall be held at one place and continue without suspension, except for brief recesses, until concluded.
- (2) The administrative judge may grant brief adjournments, for good cause shown and consistent with the requirements of expedition.

§ 3-04. Record.

The Board shall arrange for a stenographic or mechanically-created record of all hearings.

§ 3-05. Order of Proceedings.

Subject to modification by the administrative judge for good cause, all hearings shall be conducted in the following order:

- (1) presentation and argument of motions preliminary to a hearing on the merits;
- (2) presentation of opening statements, if any;
- (3) charging agency's case in chief;
- (4) respondent's case in chief;
- (5) charging agency's case in rebuttal;
- (6) respondent's case in rebuttal;
- (7) respondent's closing argument; and
- (8) charging agency's closing argument.

§ 3-06. Oaths.

(a) *In general.*

Before testifying, a witness is required to declare that he or she will testify truthfully.

(b) *Administration.*

The declaration shall be by oath or affirmation, administered:

- (1) in the form of Maryland Rule 1-303; or
- (2) in special circumstances, in some other form or affirmation calculated to impress on the witness the duty to tell the truth.

§ 3-07. General Duties and Powers of Administrative Judge.**(a) *General duties.***

The administrative judge has the duty to:

- (1) conduct a fair and impartial hearing;
- (2) take all necessary action to avoid delay in the disposition of proceedings; and
- (3) maintain order.

(b) *General powers.*

The administrative judge has all powers necessary to these ends, including the power to:

- (1) administer oaths and affirmations;
- (2) issue discovery orders and rule on objections to those orders;
- (3) receive evidence and rule on offers of proof;
- (4) regulate the course of the hearing and the conduct of the parties and their representatives;
- (5) hold conferences for simplification of issues or for any other proper purpose;
- (6) interrogate witnesses;
- (7) consider and rule on all procedural and other motions, including requests for adjournment; and
- (8) make and file recommended decisions and orders.

§ 3-08. Ex Parte Communications.

An administrative judge may not receive any ex-parte communication from the charging agency or from individual members of the Board about a proceeding, other than communications limited to ministerial matters.

§ 3-09. Impartiality.**(a) *Scope.***

This section is in addition to any applicable requirements of City Code Article 8 {"Ethics"}, § 4-2 {"Conflicts of interest; disqualification"}.

(b) *In general.*

An administrative judge should recuse him- or herself from any hearing in which his or her impartiality might reasonably be questioned, including any instances in which the administrative judge:

- (1) has a personal bias or prejudice about a party;
- (2) has personal knowledge of disputed evidentiary facts in the proceeding;
- (3) served as a lawyer in the matter in controversy or was professionally associated with another person while that person served as a lawyer in the matter in controversy;
- (4) has been a material witness to the matter;
- (5) has a financial interest in the subject matter in controversy or in a party to the proceeding;
- (6) has any other interest that could be substantially affected by the outcome of the proceeding; or
- (7) knows that his or her spouse or dependent child:
 - (i) is serving as a lawyer in the matter in controversy or is professionally associated with another person who is serving as a lawyer in the matter in controversy;
 - (ii) is likely to be a material witness in the proceeding;
 - (iii) has a financial interest in the subject matter in controversy or in a party to the proceeding; or
 - (iv) has any other interest that could be substantially affected by the outcome of the proceeding.

(c) *Motion to recuse.*

- (1) A party may request that an administrative judge recuse him- or herself for good cause shown. The request shall be ruled on by the administrative judge in the proceeding.
- (2) If the administrative judge denies the request, the party may obtain a brief adjournment to seek review by the Director.
- (3) If the Director affirms the denial, the party may raise the issue on appeal to the Board.

(d) *Notice of recusal.*

When an administrative judge recuses him- or herself from a proceeding, he or she shall do so on the record and shall notify the Director of the recusal.

(e) *Replacement.*

On recusal of an administrative judge, the Director shall appoint another administrative judge to conduct the hearing.

§ 3-10. Maintaining Discipline.

(a) *Power of administrative judge.*

After a warning, the administrative judge may bar any person, including a party or an attorney or other representatives of a party, from continued participation in a hearing if that person refuses to comply with the administrative judge's directions or behaves in a disorderly, dilatory, or obstructionist manner.

(b) *Review by Director.*

- (1) Any person so barred may promptly apply to the Director for a review of the administrative judge's action.
- (2) Unless the Director orders that further proceedings be stayed pending a decision on the application, the hearing may continue at the administrative judge's discretion without the person's participation,.
- (3) The Director's decision to grant or deny the application is not subject to an interlocutory appeal to the Board.

§ 3-11. Amendments to Citation.

(a) *Administrative judge may allow.*

If doing so will facilitate the determination of a controversy on the merits, the administrative judge may allow appropriate amendments to a citation, subject to conditions necessary to avoid injustice or unfair surprise to a party.

(b) *Conformance to evidence.*

When issues reasonably within the scope of a citation, but not expressly raised by the citation, are tried by the express or implied consent of the parties:

- (1) the issues shall be treated in all respects as if they had been raised by the citation; and
- (2) amendments of the citation may be made at any time as necessary to make it conform to the evidence.

§ 3-12. Burden of Proof.**(a) *In general.***

The charging agency has the burden of proof in establishing by a preponderance of the evidence that the respondent has committed the violation charged in the citation.

(b) *Citation as prima facie evidence.*

If a citation is sworn to or affirmed, the citation constitutes prima facie evidence of the facts stated in it.

§ 3-13. Evidence.**(a) *In general.***

Except as otherwise provided by these rules and regulations, formal rules of evidence and trial procedures do not apply.

(b) *Right to submit.*

On a genuine issue of fact, a party is entitled to:

- (1) call witnesses;
- (2) offer evidence, including rebuttal evidence;
- (3) cross-examine any witness that another party calls; and
- (4) present summation and argument.

(c) *Scope.*

The administrative judge:

- (1) may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence;
- (2) may not exclude evidence solely on the basis that it is hearsay;
- (3) shall give effect to a privilege recognized by law;
- (4) may take official notice of a fact that is judicially noticeable or that is general, technical, or scientific and within the specialized knowledge of the administrative judge; and
- (5) may exclude evidence that is:
 - (i) incompetent;

- (ii) irrelevant;
- (iii) immaterial; or
- (iv) unduly repetitious.

(d) *Exceptions.*

Formal exception to an adverse ruling is not required at the time of the ruling.

§ 3-14. Interlocutory Appeals.

(a) *Leave required.*

Interlocutory appeals from rulings of an administrative judge may be filed only if leave to file has been obtained from the administrative judge.

(b) *Criteria for leave.*

Leave to appeal will not be granted except on a showing that:

- (1) the ruling complained of involves substantial rights and will materially affect the final decision; and
- (2) a determination of its correctness before hearing ends is essential to serve the interests of justice.

(c) *Board's discretion.*

In its discretion, the Board may refuse to hear an interlocutory appeal, even though leave to appeal was obtained from the administrative judge.

(d) *Effect.*

Unless the administrative judge orders otherwise, an interlocutory appeal does not stay the proceeding or extend the time for the performance of an act.

§ 3-15. Stipulation in Lieu of Hearing.

(a) *Stipulation authorized.*

At any time before the administrative judge issues a recommended decision and order, the charging agency may offer the respondent a settlement of the matter by stipulation in lieu of further hearing.

(b) *Required elements.*

The stipulation shall:

(1) be in the manner and form set by the Director; and

(2) contain:

- (i) an admission of the violation;
- (ii) the facts stipulated to;
- (iii) the amount of the penalty to be imposed; and
- (iv) the compliance to be ordered, if any.

(c) *Before initial hearing.*

(1) If the stipulation is entered into and filed with the Board before the initial hearing on the matter, the stipulation shall be reviewed by the Board.

(2) Within a reasonable time after it receives the stipulation, the Board shall:

- (i) issue a final decision and order that incorporates the terms of the stipulation; or
- (ii) if the stipulation is not acceptable to the Board, order the matter to be rescheduled for hearing.

(d) *During hearing.*

If the stipulation is entered into during the course of a hearing and if the administrative judge approves the stipulation, it shall be incorporated into the administrative judge's recommended decision and order.

(e) *Stipulation not appealable.*

Decisions and orders based on stipulations are not appealable.

§ 3-16. Recommended Decisions and Orders.

(a) *Administrative judge to prepare.*

The administrative judge shall prepare a recommended decision and order within 30 days of completion of a hearing.

(b) *Recommended decision.*

The administrative judge's decision shall set forth:

- (1) findings of fact and conclusions of law; and
- (2) the administrative judge's reasons for its findings on all material issues.

(c) *Recommended order.*

If the administrative judge recommends that the charges in the citation be upheld, the administrative judge shall prepare a recommended order that sets forth:

- (1) the proposed penalty; and
- (2) if the Board is authorized by law to impose remedial relief or other sanction, the proposed remedial relief or sanctions.

(d) *Filing.*

The recommended decision and order shall be filed with the Director and served on all parties.

(e) *Finality.*

If timely exceptions are not filed under § 4-01, the administrative judge's recommended decision and order:

- (1) may be adopted by the Board, without further action; and
- (2) constitutes the Board's final action in the matter.

ARTICLE 4
ADMINISTRATIVE AND JUDICIAL REVIEW

§ 4-01. Exceptions to Recommended Decision and Order.

(a) *Filing.*

- (1) Any party aggrieved by the recommended decision and order may file written exceptions with the Board.
- (2) Except as otherwise provided in § 4-02 of this article, the exceptions must be filed within 30 days after the recommended decision and order is delivered or mailed to the parties.
- (3) The exceptions must contain:
 - (i) a concise statement of the issues presented;
 - (ii) specific objections to the findings of fact and conclusions of law set forth in the recommended decision and order; and
 - (iii) arguments that present clearly the points of law and facts relied on in support of the position taken on each issue.
- (4) A copy of the exceptions must be served on all parties, with proof of service filed with the Board.

(b) *Answer.*

- (1) Within 20 days after the exceptions have been served on a party, that party may file an answer in support of the recommended decision and order.
- (2) The answer must comply with the requirements of subsection (a) of this section for contents and service.

(c) *Replies.*

Further briefing is not permitted unless the Board otherwise directs.

§ 4-02. Transcripts.

(a) *In general.*

A party may apply in writing for a written copy of the transcript of the hearing at any time:

- (1) within the period allowed for filing exceptions; or
- (2) if later, within 30 days after the other party has filed exceptions.

(b) *Extension of time.*

If an application is timely made under subsection (a) of this section, the time within which exceptions must be filed is extended to 20 days from the date when the transcript is delivered or mailed to the party who requested it.

(c) *Fee.*

The Board may charge the person who requested the transcript a fee for the transcript, including the expense of transcription.

§ 4-03. Applications to Extend Time.

An application to extend the time for filing exceptions or answers for any reason must be:

- (1) made in writing to the Director; and
- (2) supported by evidence of impossibility or other explanation of inability to file timely.

§ 4-04. Review Panels.

(a) *Panels authorized.*

From time to time, the Board may establish panels from among its members to undertake the review of exceptions to administrative judges' recommended decisions and orders.

(b) *Subsequent review by Board.*

If a review is undertaken by a panel, that panel shall report its findings to the Board for final resolution.

§ 4-05. Review to be on Record.

(a) *In general.*

When exceptions have been filed, the Board shall consider the entire matter on the basis of the record before it.

(b) *Record elements.*

For this purpose, the record comprises:

- (1) the citation;
- (2) the transcript of the hearing;
- (3) all briefs filed and exhibits received in evidence; and
- (4) the administrative judge's recommended decision.

(c) *Witness credibility.*

The Board shall give due regard to the administrative judge's opportunity to judge the credibility of any witnesses.

(d) *Additional evidence or argument.*

If the Board or a panel of the Board considers it necessary or appropriate, it may:

- (1) order further testimony or evidence to be taken or submitted; or
- (2) order oral argument on any or all of the questions raised on appeal.

§ 4-06. Decision and Order.

(a) *In general..*

(1) After review, the Board shall issue its decision and order in the matter.

(2) In its decision and order, the Board may:

- (i) concur with, reverse, or modify the administrative judge's recommended decision and order; or
- (ii) remand the matter for further proceedings.

(b) *Decision.*

The Board's decision shall contain findings of fact and conclusions of law.

(c) *Order.*

The Board shall issue an order that:

- (1) is consistent with its decision; and
- (2) exercises those powers of the Board that the Board considers appropriate.

§ 4-07. Corrections to Board Decision and Order.

(a) *In general.*

To correct ministerial errors or errors due to mistake of fact or law, any party may apply to the Board for a superseding appeal decision.

(b) *Time for filing.*

The application must be filed within 10 days after the mailing of the Board's final decision and order.

§ 4-08. Impartiality.**(a) *Scope.***

This section is in addition to any applicable requirements of City Code Article 8 {"Ethics"}, § 4-2 {"Conflicts of interest; disqualification"}.

(b) *In general.*

A Board member should recuse him- or herself from any hearing in which his or her impartiality might reasonably be questioned, including any instances in which the Board member:

- (1) has a personal bias or prejudice about a party;
- (2) has personal knowledge of disputed evidentiary facts in the proceeding;
- (3) served as a lawyer in the matter in controversy or was professionally associated with another person while that person served as a lawyer in the matter in controversy;
- (4) has been a material witness to the matter;
- (5) has a financial interest in the subject matter in controversy or in a party to the proceeding;
- (6) has any other interest that could be substantially affected by the outcome of the proceeding; or
- (7) knows that his or her spouse or dependent child:
 - (i) is serving as a lawyer in the matter in controversy or is professionally associated with another person who is serving as a lawyer in the matter in controversy;
 - (ii) is likely to be a material witness in the proceeding;
 - (iii) has a financial interest in the subject matter in controversy or in a party to the proceeding; or
 - (iv) has any other interest that could be substantially affected by the outcome of the proceeding.

(c) *Motion to recuse.*

- (1) A party may request that a Board member recuse him- or herself for good cause shown. The request shall be ruled on by the Board.
- (2) If the Board denies the request, the party may raise the issue on judicial review.

§ 4-09. Judicial Review.**(a) *In general.***

Any party who is aggrieved by a final decision and order of the Board may appeal that decision as provided in Article 1, § 40-10 of the Baltimore City Code and Title 7 of the Maryland Rules.

(b) *No stay.*

The filing of an appeal does not stay the Board's order, unless the Circuit Court for Baltimore City grants a stay.

ARTICLE 5
DEFAULT PROCEEDINGS

§ 5-01. Acts Constituting Default.

A respondent is in default if:

- (1) the respondent fails to pay the prescribed prepayable fine or to request a hearing within the time specified on the citation; or
- (2) having requested a hearing, the respondent fails to appear at the hearing.

§ 5-02. Default Penalty.

On a respondent's default, the Board may:

- (1) impose a default decision and order against the respondent; and
- (2) impose a civil penalty of 3 times the amount of the prepayable fine, subject to the maximum allowed by law.

§ 5-03. Notice of Default.

(a) *Notice required.*

Before a default order becomes final, the Board shall mail a Notice of Default to the respondent.

(b) *Contents.*

The Notice shall:

- (1) contain a copy of the default decision and order;
- (2) specify the amount of all penalties imposed; and
- (3) notify the respondent of the right to request a waiver of penalties for good cause shown.

§ 5-04. Request for Waiver.

(a) *In general..*

A request for a waiver must be made in writing within 30 days after the mailing of the Notice of Default.

(b) *Delayed request.*

If a request is made later than the time required by subsection (a) of this section but within 90 days after the mailing of the Notice of Default, the Director may process the request if the respondent shows good cause for his or her delay in making the request.

§ 5-05. Consideration of Request.

(a) First default.

For a first default, the Director may:

- (1) grant the waiver for good cause shown; or
- (2) refer the request to the Board.

(b) Second or subsequent default.

For a second or subsequent default on the same citation, the Director shall refer the request to the Board.

§ 5-06. Action by Board.

The Board may waive or reduce a default penalty after considering:

- (1) the nature and severity of the underlying violation;
- (2) the respondent's history of past violations; and
- (3) any mitigating or aggravating circumstances.

**ARTICLE 6
ENFORCEMENT****§ 6-01. Fines and Penalties.***(a) As personal debt.*

Fines and penalties imposed by the Board are:

- (1) personal debts owed by the respondent to the City; and
- (2) collectable from and enforceable against any of the assets of the respondent.

(b) As lien.

If the violation involves real property owned by the respondent, fines and penalties imposed by the Board, whether on hearing, on default, or otherwise, are liens on that property in favor of the City.

§ 6-02. Abatement Orders.*(a) Payment does not relieve obligation to correct.*

- (1) Payment of a prepayable fine does not relieve the respondent of the obligation to correct ongoing violations by the date specified in the citation.
- (2) Additional citations may be issued for uncorrected violations.

(b) Correction does not relieve obligation to pay.

The correction of a violation does not relieve the respondent of the obligation to pay the prepayable fine.

§ 6-03. Citation not Exclusive.

The issuance of a citation does not preclude pursuit of any other remedy or enforcement action authorized by law.

§ 6-04. Application to Court.

The Board may apply to a court of competent jurisdiction for enforcement of any decision or order of the Board.

Adopted: July 30, 2003